

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
 FOR THE COUNTY OF YAVAPAI

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STATE OF ARIZONA,)

Plaintiff,)

vs.)

Case No. V1300CR201080049

JAMES ARTHUR RAY,)

Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
 BEFORE THE HONORABLE WARREN R. DARROW

TRIAL DAY FORTY-NINE

JUNE 2, 2011

Camp Verde, Arizona

ORIGINAL

REPORTED BY
 MINA G. HUNT
 AZ CR NO. 50619
 CA CSR NO. 8335

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 FOR THE COUNTY OF YAVAPAI
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4 STATE OF ARIZONA,)
5 Plaintiff,)
6 vs.) Case No V1300CR201080049
7 JAMES ARTHUR RAY,)
8 Defendant.)
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1 Proceedings had before the Honorable
2 WARREN R. DARROW, Judge, taken on Thursday, June 2,
3 2011, at Yavapai County Superior Court, Division
4 Pro Tem B, 2840 North Commonwealth Drive,
5 Camp Verde, Arizona, before Mina G. Hunt, Certified
6 Reporter within and for the State of Arizona.
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P R O C E E D I N G S

(Proceedings continued outside presence of jury.)

THE COURT: The record will show the presence of Mr. Ray and his attorneys, Mr. Kelly and Mr. Li. And the state's represented by Ms. Polk and Mr. Hughes.

And I just want to make a brief record here about the delay this morning. A juror had some serious automobile problems on I-17; however, the bailiff with the agreement of counsel went out and got him. He's in the jury room now ready to start, and Heidi has reported that he's -- he's got things handled -- transportation, taking care of the vehicle. So everything seems to have worked out. And I was asked that I make a record of that, so I have.

Anything else on that, Ms. Polk?

MS. POLK: Not on that issue, Your Honor.

THE COURT: Mr. Kelly?

MR. KELLY: No, sir.

THE COURT: Did you have something pretrial?

MS. POLK: I do just briefly, Your Honor. Two issues. One is that the audiotapes that were played in court yesterday, I believe, came off of

Exhibit 600.

THE COURT: One was 600. And the other --

MS. POLK: And 690.

THE COURT: Correct.

MS. POLK: And I think the record should reflect that only a portion -- well, actually I suppose maybe counsel should submit a separate exhibit. The issue, Your Honor, is that both of those exhibits have multiple interviews on them, and only a portion of both of those exhibits was played for the jury.

THE COURT: We've had this before. And I think that there have been separate recordings done. Haven't there?

MR. KELLY: Judge, I believe. For the record, though, I don't have my notes from yesterday, so I don't have the numbers. But I know what was played. It was a tape from October 8th, 2009, interview between Parkinson (sic throughout) and Rock; and October 29th, 2009, an interview between Boelts and Rock.

And we can make two separate exhibits to make sure that we've identified what was played in front of the jury and mark them as a separate number by tomorrow if that's what the concern is.

THE COURT: I know I've asked that be done on other occasions.

But, Ms. Polk, that's what you're asking?

MS. POLK: It is, Your Honor. And when it's done, if there can be a record of what the new exhibit number is.

THE COURT: Please do that. When it's available, please provide it to the state. Let me know, and we'll put it on the record we -- they won't be admitted as evidence. They're just part of the record because of what was played.

Okay.

MR. KELLY: And, Judge, we wouldn't have any objection to moving them into evidence. We'll leave that to you and the state's discretion.

THE COURT: Ms. Polk?

MS. POLK: We do object to that, Judge, because they were not admitted at the time.

THE COURT: Right. They were played, essentially, for demonstrative purposes. And they will be part of the record in that capacity.

MS. POLK: Judge, another quick issue is the -- we have briefly talked with Mr. Kelly this morning about time restrictions on the remaining witnesses. The state has three more witnesses.

And then if appropriate, I'd like to raise the issue of Fawn Foster later. But, in any event, three more witnesses. We hope to finish by Friday, which at this point is tomorrow. And we are suggesting time limits of an hour and a half per side per witness.

MR. KELLY: Judge, I generally think that's a good idea and will make every effort to do that. But, again, as I explained to Mr. Hughes, sometimes the witness is beyond our control in the time that they take to answer. The difficulty in obtaining an answer, et cetera, sometimes dictates the amount of time. But I haven't consulted with Mr. Li.

But I know with Ms. Brinkley, she had some transportation issues. And hopefully she can be out of here by 12:30 or so. And so my cross-examination is very focused in that regard. So that's a very wishy-washy way to answer that question. But we'll sure try to do that, Judge.

THE COURT: I know that the attorneys have not asked for my assistance sometimes when witnesses don't want to go with a yes or no. And I've said before I don't want to interject myself into that.

If the examination proceeds in a fashion and an attorney wants to have the witness kind of

1 do his or her own follow up, that can happen. But
2 I certainly, and have on occasion, always when
3 asked, will direct the attention of the witness to
4 the question so it's answered in the appropriate
5 fashion.

6 I'll just mention that again. I think
7 that's a good guideline. As I indicated before --
8 two weeks ago, whenever -- when I indicated I might
9 have to impose time limits, there can be concerns
10 when that's done in a trial in the criminal justice
11 system. That's not regularly done.

12 But I think that's a good guideline,
13 Ms. Polk. And I want to keep to that guideline.
14 Talk to the clerk about timing. I know they do
15 that routinely in civil matters. We -- like I
16 said, we don't do it often.

17 MS. POLK: And, Your Honor, on the issue of
18 Ms. Brinkley, we have moved her back to a later
19 shuttle in light of the issues this morning.

20 THE COURT: I'm sorry, Ms. Polk. Can you --

21 MS. POLK: We have moved her back to a later
22 shuttle this afternoon in light of the issues this
23 morning.

24 THE COURT: Anything else, then, right now?

25 MS. POLK: No, Your Honor.

1 MR. KELLY: No.

2 THE COURT: Then we'll get the jury in and
3 start.

4 (Recess.)

5 (Proceedings continued in the presence of
6 jury.)

7 THE COURT: The record will show the presence
8 of the defendant, Mr. Ray; the attorneys, and the
9 jury.

10 Ladies and gentlemen, the one day we
11 planned on starting early, and believe me, through
12 nobody's fault, there was a serious problem.
13 Luckily it worked out. Nobody was injured or
14 anything like that. It was an automobile type of
15 thing. And those things happen. So we're not
16 starting at 8:30. But really I'm glad that things
17 are working out.

18 And, again, I appreciate all the time and
19 attention that you've devoted in the matter in this
20 case.

21 So if we can proceed, Ms. Polk.

22 MS. POLK: Thank you, Your Honor. The state
23 calls Kim Brinkley, please.

24 THE COURT: Ma'am, if you would please step to
25 the front of the courtroom where the bailiff is

1 directing you. Raise your right hand and be sworn
2 by the clerk.

3 KIM S. BRINKLEY,

4 having been first duly sworn upon her oath to tell
5 the truth, the whole truth, and nothing but the
6 truth, testified as follows:

7 THE COURT: Please be seated here to my right.

8 Ma'am, please start by stating and
9 spelling your full name.

10 THE WITNESS: Yes. It's Kim Sue Brinkley.

11 That's K-i-m, S-u-e, B-r-i-n-k-l-e-y.

12 THE COURT: Thank you.

13 THE WITNESS: Yes, sir.

14 THE COURT: Ms. Polk.

15 MS. POLK: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MS. POLK:

18 Q. Good morning, Ms. Brinkley.

19 A. Good morning.

20 Q. Please start by telling the jury what
21 state you live in.

22 A. I live in California.

23 Q. In what community?

24 A. I live just north of San Diego in a town
25 called "Poway."

1 Q. What is your occupation?

2 A. I am a teacher.

3 Q. How long have you been a teacher?

4 A. Since 2008.

5 Q. And do you have a degree in education?

6 A. I do.

7 Q. From where?

8 A. From National University.

9 Q. Did there come a time when you learned of
10 a person named James Ray?

11 A. Yes.

12 Q. When was that?

13 A. It was in 2007. I watched a movie called
14 "The Secret."

15 Q. After watching that movie, did you have
16 further contact with Mr. Ray or his organization?

17 A. I did.

18 Q. And how was that?

19 A. I went to what they call an
20 introductory -- I don't know -- a seminar or
21 whatever. It was a short thing. It was very close
22 to where I worked. It was a one-hour thing. And
23 he talked about the kind of things he taught. And
24 he talked about signs and factual things that I
25 really related to. And it interested me.

1 **And so at that point, I decided I wanted**
 2 **to attend one of his -- I mean, seminars,**
 3 **workshops, whatever you want to call them.**
 4 Q. Was that event a free event?
 5 A. **The first one I went to, it was not free**
 6 **when I went, but I didn't pay very much. It was,**
 7 **like, \$25.**
 8 Q. Did you subsequently attend some paid
 9 events?
 10 A. **I did.**
 11 Q. Can you tell the jury how many events
 12 you -- you participated in between 2007 and
 13 then 2009?
 14 A. **Okay. The first one I went to was**
 15 **Harmonic Wealth. Then I went to Practical**
 16 **Mysticism. And then I attended Quantum Leap,**
 17 **Creating Absolute Wealth, Modern Magick, and then**
 18 **Spiritual Warrior. So I think that's six.**
 19 Q. And over how many months did you attend
 20 those six events?
 21 A. **From September of 2007 until October of**
 22 **2009. It was during that period of time.**
 23 Q. So approximately two years?
 24 A. **Yes.**
 25 Q. And do you know how much money total you

1 paid to attend all those events combined?
 2 A. **Probably close to -- I -- well, I would**
 3 **say probably between 40 and \$50,000.**
 4 Q. When was it that you signed up to attend
 5 the Spiritual Warrior 2009 event?
 6 A. **In December of 2008.**
 7 Q. Do you recall how much you paid for that
 8 event alone, the Spiritual Warrior 2009?
 9 A. **It was a little less than \$10,000.**
 10 Q. Prior to attending Spiritual
 11 Warrior 2009, did you receive a packet of
 12 information from Mr. Ray's company?
 13 A. **Do you mean for that event?**
 14 Q. Yes. For that event.
 15 A. **Okay. I did. They emailed out what they**
 16 **call -- I don't know -- it's like an event guide**
 17 **that gives you -- like, it tells you where you're**
 18 **going, what to pack. It gives you certain**
 19 **information. It doesn't -- there is a lot of**
 20 **information that it does not give you, but it gives**
 21 **you basic information.**
 22 Q. Do you recall whether you saw a waiver or
 23 a release form in that packet?
 24 A. **Yes, I did.**
 25 Q. And did you read it?

1 A. **Yes, I did.**
 2 Q. And ultimately did you sign it?
 3 A. **Yes.**
 4 Q. Do you recall when it was that you signed
 5 it?
 6 A. **No, I do not.**
 7 Q. Do you recall if you signed it when you
 8 arrived at Angel Valley in October of 2009?
 9 A. **Oh, yeah. We went into a tent. They had**
 10 **a tent set up, and we did -- I did sign it there.**
 11 **Yes.**
 12 Q. Ms. Brinkley, I'm going to show you
 13 what's been marked as Exhibit 165 --
 14 A. **Okay.**
 15 Q. -- and ask you if you recognize that
 16 document.
 17 A. **Yes.**
 18 Q. And what do you recognize that to be?
 19 A. **This was the document they handed us when**
 20 **we went into the welcome tent.**
 21 Q. And is that the release form that you
 22 signed?
 23 A. **Yes.**
 24 Q. And then do you recall whether you also
 25 signed a release form for Angel Valley?

1 A. **I -- I don't recall. But it's very**
 2 **likely that I did.**
 3 Q. I'm going to hand you what's marked as
 4 Exhibit 166.
 5 Do you recognize that document?
 6 A. **Oh, yes. I do.**
 7 Q. And that's the release form for
 8 Angel Valley that you signed?
 9 A. **Right. And I probably faxed that with my**
 10 **payment.**
 11 MS. POLK: Your Honor, I move for the
 12 admission of Exhibit 165 and 166.
 13 MR. KELLY: No objection.
 14 THE COURT: 165 and 166 are admitted.
 15 (Exhibits 165 and 166 admitted.)
 16 Q. BY MS. POLK: I'm going to put up on the
 17 overhead Exhibit 165, which is the release form for
 18 the Spiritual Warrior event.
 19 Then I'm going to put up the signature
 20 page -- it's Bates 1620 -- and ask if you can -- do
 21 you recognize, first of all, your signature?
 22 A. **I do.**
 23 Q. And then do you recognize who that is
 24 that's listed there?
 25 A. **Yes. Rosie was actually ultimately my**

1 roommate.

2 Q. And I was going to ask you that.

3 A. Yes.

4 Q. At Angel Valley, once you arrived and
5 were given room assignments, where were you
6 assigned to?

7 A. I was assigned to a cabin that really was
8 not too far from where the sweat lodge was. I
9 don't remember what the name of it was. It started
10 with a "C," but that's all I remember.

11 Q. Who were your roommates?

12 A. Rosie Senjem and Lynette Wachterhauser.

13 Q. Do you recall, when you examined the
14 release for the Spiritual Warrior event, if you
15 read the language in the first paragraph?

16 A. I'm sure I read it actually before I got
17 there. I probably read it when I initially got the
18 packet.

19 Q. And, Ms. Brinkley, do you recall
20 specifically reading the language about releasing
21 from liability for incidents resulting in death?

22 A. I do. But I signed that knowing that
23 negligence -- negligence does not release someone
24 from --

25 MR. KELLY: Your Honor, objection to the legal

1 opinion.

2 THE WITNESS: That's not an opinion. That is
3 a fact.

4 THE COURT: I'm sorry, ma'am. There is an
5 objection --

6 THE WITNESS: I'm sorry.

7 THE COURT: -- pending. That's okay. When
8 there is an objection, I do need to rule on that.

9 Ms. Polk, we've had this type of thing --
10 as to the form of the question, the way it was
11 presented, there is an objection in that area. And
12 it would be sustained as to form.

13 Q. BY MS. POLK: Ms. Brinkley, when you read
14 this document, did you read the information here
15 about a sweat lodge ceremony, a ceremonial sauna
16 involving tight, enclosed spaces and intense
17 temperatures?

18 A. I did. But I knew that prior to reading
19 that as well.

20 Q. You knew that a sweat lodge was going to
21 be part of it?

22 A. I did.

23 Q. Did you have any questions about the
24 release that you signed or the upcoming events?

25 A. Even if I did, there were certain things

1 they would not answer.

2 Q. And who is they?

3 A. The Dream Team, prior participants. They
4 wanted people to experience for themselves the --

5 MR. KELLY: Your Honor, objection to the
6 hearsay.

7 THE COURT: Sustained.

8 Q. BY MS. POLK: What was your understanding
9 about your ability to have questions answered about
10 the Spiritual Warrior 2009?

11 A. My understanding --

12 MR. KELLY: Same objection, Your Honor. It's
13 based upon hearsay.

14 THE COURT: Sustained as to foundation.

15 Q. BY MS. POLK: Did you feel that you could
16 ask questions about Spiritual Warrior 2009? That's
17 a yes or a no.

18 A. No.

19 Q. And why not?

20 A. Because my friend who attended the prior
21 year told me --

22 MR. KELLY: Your Honor, objection.

23 THE COURT: Sustained.

24 Q. BY MS. POLK: Without telling the jury
25 what your friend had told you, are you able to

1 answer the question why you felt you could not ask
2 questions?

3 A. Yes. I can answer that.

4 Q. Without telling us what someone else told
5 you?

6 A. Right.

7 Q. Okay.

8 A. These events are similar to another --

9 MR. KELLY: Your Honor, I'm going to object.
10 Simply requesting information based on hearsay.
11 It's improper.

12 THE COURT: As to form of the question and
13 foundation, sustained.

14 Q. BY MS. POLK: You attended -- you've
15 testified that you attended other events put on by
16 Mr. Ray's company?

17 A. Yes, I did.

18 Q. And based on your experience at those
19 other events, did you come to form an opinion as to
20 your ability to ask questions about upcoming
21 events?

22 A. Yes, I did.

23 Q. And can you explain that to us.

24 A. Yes, I can. The idea was that it was
25 something that you were to experience yourself.

1 And if someone were to share information about
2 certain things that occurred at these events that
3 it would inhibit you from having an authentic
4 experience.

5 Q. Who did you hear that from?

6 A. From a number of my friends, as well as I
7 worked on the Dream Team and was also told not to
8 share what would be happening.

9 MR. KELLY: Your Honor, I object. Hearsay.
10 Lack of foundation.

11 THE COURT: It's a foundation matter. It's
12 sustained on that basis.

13 Q. BY MS. POLK: When did you serve as a
14 Dream Team yourself, Ms. Brinkley?

15 A. In September of 2008, I served at a
16 Harmonic Wealth event.

17 Q. And as part of serving as the Dream Team
18 member for that event, did you ever receive
19 instruction directly from Mr. Ray?

20 A. Not too much. No.

21 Q. Without telling us what instructions you
22 received, who did you receive instructions for to
23 be a Dream Team member?

24 A. Mostly from his -- his team, his
25 employees. Sheryl Stern -- Oh. I'm forgetting

1 names -- Tina Hefner -- I don't remember -- oh,
2 Michelle Goulet. Those are the three that I
3 remember specifically that were always at the
4 events who talked about what we were and were not
5 to do as Dream Team members.

6 Q. I want to now direct your attention to
7 the Spiritual Warrior 2009 event. The jury has
8 heard a lot of testimony about the events leading
9 up to the sweat lodge, so I'm not going to ask you
10 a lot of questions about it.

11 A. Okay.

12 Q. But we've heard testimony about a
13 head-shaving event that occurred on Sunday night.
14 Can you tell us whether or not you shaved your
15 head.

16 A. I did. But I did not do it when everyone
17 else did it that night.

18 Q. When did you do it?

19 A. Very early the next morning.

20 Q. Why did you not do it the first night?

21 A. Because I felt if I was going to do that,
22 I needed to know in my heart that I had a
23 legitimate reason for doing it.

24 Q. And did you find a legitimate reason?

25 A. I did.

1 Q. And what was that?

2 A. That I felt I didn't want to be a slave
3 to my appearance or to my hair. I have very
4 naturally curly hair, and I was teased quite a bit
5 as a child. So I'm pretty weird about my hair.
6 And I just felt like I didn't want to be a slave to
7 that. And at that point, I got up -- it must have
8 been 5:00 o'clock in the morning -- and I went and
9 found a Dream Team member.

10 Q. Do you recall who you found to cut your
11 hair?

12 A. I found Mark Rock. And he took me to Liz
13 Neuman and to Jennifer Haley.

14 Q. And which one cut your hair?

15 A. Jennifer.

16 Q. Were they both up that early?

17 A. Yes.

18 Q. Had you met Liz Neuman before?

19 A. Yes. We were both in the coaching
20 program.

21 Q. How far back does your relationship with
22 Liz Neuman go?

23 A. To early 2008.

24 Q. Do you recall when you first met her?

25 A. No, I don't. I just know that we were at

1 some events together.

2 Q. Will you tell us what the coaching
3 program was that you and Liz were involved in
4 together.

5 MR. KELLY: Your Honor, objection. Relevance.

6 THE COURT: Overruled.

7 THE WITNESS: James Ray's organization offered
8 a coaching program called "Harmonic Wealth
9 Coaching." And it was done through an organization
10 called "CoachVille," which is an online coaching.

11 And it was taking classes via online and the
12 telephone to work towards the International
13 Federation of Coaches, a certification.

14 And once you completed that, it also
15 included class- -- classes tailored to James's
16 Harmonic Wealth book, his ideas in -- in regards to
17 that.

18 And so once you got all the classes done,
19 whether you had certification or not, it would be
20 possible that he would contact you to do coaching
21 for his clients.

22 Q. BY MS. POLK: Did you ever become a coach
23 for Mr. Ray's clients?

24 A. No.

25 Q. Do you know whether Liz Neuman ever

1 became a coach for Mr. Ray's clients?

2 **A. She did not.**

3 **Q.** Can you just briefly describe for the
4 jury what Liz Neuman was like.

5 MR. KELLY: Your Honor, objection. Relevance.

6 THE COURT: Sustained.

7 **Q.** BY MS. POLK: Do you know, Ms. Brinkley,
8 how many events put on by Mr. Ray Liz Neuman had
9 participated in?

10 MR. KELLY: Your Honor, objection. Relevance,
11 lack of foundation.

12 THE COURT: It would be -- well, it calls for
13 a -- I'll sustain on foundation.

14 MS. POLK: It was just a yes or no.

15 THE COURT: I know. But in this instance I
16 want to know if there is personal knowledge.

17 **Q.** BY MS. POLK: How many events did you
18 attend put on by Mr. Ray that Liz Neuman was also
19 at?

20 **A. Probably three.**

21 **Q.** Do you recall what three those were?

22 **A. I know Modern Magick, Spiritual Warrior,
23 and, I believe, Creating Absolute Wealth.**

24 **Q.** And this is just a yes or no question.

25 But based on your participation at those events

1 along -- and where Liz Neuman was present, were you
2 able to form an opinion as to Liz Neuman's level of
3 commitment to Mr. Ray's teaching?

4 MR. KELLY: Objection, Your Honor.
5 Speculation, improper.

6 THE COURT: Sustained as to foundation.

7 **Q.** BY MS. POLK: Did you have any contact
8 with Liz Neuman outside or apart from the James Ray
9 events?

10 **A. Just through email and -- I don't think
11 she was in the coaching classes I was in. We
12 didn't have any of the same classes. So by email.**

13 **Q.** Going back to Spiritual Warrior 2009 and
14 the events in that week in October, will you tell
15 the jury how much sleep you had that week before
16 you entered the sweat lodge.

17 **A. Well, the first night I didn't sleep much
18 because I kept tossing and turning about the
19 shaving-of-the-head deal. That was a pretty
20 restless night. And I probably only got a couple
21 of hours of sleep. It wasn't a normal night's
22 sleep. I can tell you. It must have been five or
23 six hours. I'm used to getting eight hours.
24 That's what I function best on.**

25 **Q.** The jury has heard testimony from other

1 witnesses about doing some writing exercises. Did
2 you also do that?

3 **A. Yes. It was called "recapitulation."**

4 **Q.** And did you spend time in the evening
5 when you otherwise might have been sleeping to do
6 that exercise?

7 MR. KELLY: Your Honor, objection. Leading.

8 THE COURT: It is sustained.

9 **Q.** BY MS. POLK: Did you participate in the
10 exercise involving Holotropic breathing?

11 **A. Yes.**

12 **Q.** Had you done that before at other events?

13 **A. Yes.**

14 **Q.** Ms. Brinkley, did you -- are you familiar
15 with the concept of an altered state?

16 **A. Yes.**

17 **Q.** Who did you -- how did you become
18 familiar with that concept?

19 **A. Well, I have a bachelor's degree in
20 psychology. So I've had some -- read some books
21 regarding that. But I also have read about
22 meditation, which I know is also an altered state.
23 And I've done some of that and been at Practical
24 Mysticism, which I went to in July of 2008, was the
25 first time I did the Holotropic Breathwork and**

1 **experienced that type of altered state.**

2 **Q.** And under whose direction did you do the
3 Holotropic Breathwork at Practical Mysticism?

4 **A. James Ray.**

5 **Q.** Did you also participate in the Vision
6 Quest?

7 **A. Yes.**

8 **Q.** And during your Vision Quest, did you
9 have anything to drink?

10 **A. No.**

11 **Q.** And did you have anything to eat?

12 **A. No.**

13 **Q.** Did you ever leave your medicine wheel or
14 your circle?

15 **A. No, I didn't.**

16 **Q.** Did you participate prior to the Vision
17 Quest in the Samurai Game?

18 **A. Yes, I did.**

19 **Q.** Did you have a role in the Samurai Game?

20 **A. Yes.**

21 **Q.** And what was your role?

22 **A. I -- well, I was just on a team and kind
23 of protected the -- the leader of my group.**

24 **Q.** Do you recall who your team leader was?

25 **A. Bill Leversee.**

1 Q. Did you ever die during the game?
 2 A. No.
 3 Q. And at some point did that game end with
 4 everybody dying?
 5 A. Yes.
 6 Q. How so?
 7 A. We were told to commit hara-kiri.
 8 Q. By whom?
 9 A. By James.
 10 Q. Do you recall whether Mr. Ray gave you
 11 any feedback after the game as to how you had
 12 played it?
 13 A. No, I don't.
 14 Q. During the week did you hydrate?
 15 A. Yes, I did.
 16 Q. And were you told to hydrate by Mr. Ray?
 17 A. Yes.
 18 Q. Did you make a conscious effort to
 19 hydrate?
 20 A. Yes.
 21 Q. Were you able to hydrate on the Vision
 22 Quest?
 23 A. No.
 24 Q. Did you know prior to the Vision Quest
 25 that the sweat lodge event was coming up?

1 A. Yes.
 2 Q. And did you do anything to prepare
 3 yourself for the sweat lodge event?
 4 A. No, I didn't. I -- I assumed that I had
 5 already been told how to prepare by hydrating. And
 6 we were given salt that we were supposed to take a
 7 teaspoon of a day.
 8 Q. Other than being told to hydrate and
 9 given the salt, did Mr. Ray prior to Thursday
 10 prepare you in any way for the sweat lodge event?
 11 A. No. Not until right beforehand.
 12 Q. Right beforehand did you hear a briefing
 13 from Mr. Ray about the sweat lodge?
 14 A. Yes.
 15 Q. And what do you recall hearing?
 16 A. He talked about the fact that he had
 17 encouraged us not to eat heavy because we could
 18 possibly throw up while we were in there. He
 19 talked about the fact that we would possibly go
 20 into altered states. He talked about how hot it
 21 would get, probably hotter than anything we had
 22 experienced previously. He also talked about the
 23 fact that we might feel like we were going to die
 24 but that we weren't going to.
 25 And the one thing that really stuck in my

1 head was that he told us he had a Native American
 2 friend who called his sweat lodge a "sweat lodge on
 3 steroids."
 4 Q. How did you feel after hearing that
 5 briefing?
 6 A. Well, I was nervous. I was nervous.
 7 Q. Had you ever been in a sweat lodge
 8 before?
 9 A. No.
 10 Q. Did Mr. Ray provide you with any warnings
 11 of things to look out for for your health?
 12 A. Not anything specific. No.
 13 Q. Did Mr. Ray ever warn you that the
 14 altered state was a hallmark of heat stroke?
 15 MR. KELLY: Your Honor, objection. Judge,
 16 Exhibit 141 is in evidence. It speaks for itself.
 17 It's the actual recording. It's an improper --
 18 it's asking for a medical opinion from a lay
 19 witness. It misstates the evidence.
 20 THE COURT: It's leading as well. Sustained.
 21 Q. BY MS. POLK: Did Mr. Ray explain to you
 22 the purpose of the sweat lodge?
 23 A. Yes.
 24 Q. And what do you recall him telling you?
 25 A. This is not verbatim. But ultimately

1 what he was saying to us that it was like dying and
 2 being reborn.
 3 Q. What did you understand the altered state
 4 to be about inside the sweat lodge?
 5 A. I didn't really understand what it was
 6 about. I mean, I knew it was just something that
 7 would probably happen because of the heat. That
 8 was it.
 9 Q. Did you have any misgivings about being
 10 in a superheated environment?
 11 A. Well, it -- it made me nervous because I
 12 don't do well in heat. But I was willing to give
 13 it a try.
 14 Q. Did you trust Mr. Ray?
 15 A. I did trust him.
 16 Q. I'm just going to put up on the overhead
 17 a photograph of 2009 as the participants entering
 18 the sweat lodge. And I can bring it up to you if
 19 that would help. I'm going to ask you -- this is
 20 Exhibit 144. I'm going to ask you if you recognize
 21 yourself in this photograph -- or if you can find
 22 yourself.
 23 A. No. I don't see myself.
 24 Q. Do you recall where in the line you were
 25 as you entered the sweat lodge?

1 **A. I was sixth or seventh in line behind**

2 **James.**

3 **Q.** And then I'm going to put up on the
4 overhead Exhibit 414.

5 And this is just a simple diagram of the
6 sweat lodge, Ms. Brinkley.

7 Can you show that this is the entrance
8 over here?

9 **A. Yes.**

10 **Q.** You can actually mark on the screen, like
11 I just did, with your finger. Can you show the
12 jury once you entered where you went.

13 **A. I was approximately right here.**

14 **Q.** And how did you get there once you
15 entered the door?

16 **A. We went clockwise in the door.**

17 **Q.** Okay. Do you recall who sat near you?

18 **A. Well, I believe the person to my left was**
19 **Stephen Ray, although I didn't know him very well.**

20 **So I'm not real sure if it was him or not. But**
21 **that's who I thought it was. To my right was a**
22 **couple from Canada, a man and a woman, who ended up**
23 **going to the emergency room with me later.**

24 **Q.** Do you recall their names?

25 **A. Unfortunately I don't.**

1 **Q.** And were you in the back row or the front
2 row?

3 **A. I was in the back row.**

4 **Q.** I'm going to put up on the overhead
5 Exhibit 528.

6 This is the inside of the sweat lodge. I
7 don't know if it's the side where you were on or
8 not. But what I want to ask you is in your
9 position, how close were you to the edge or the
10 back of the tent itself?

11 **A. I was sitting right by the edge of the**
12 **tent.**

13 **Q.** You see on here the blankets that are
14 near the frame? Can you just draw a line where
15 that would be for us.

16 **A. As far as?**

17 **Q.** How close to the -- to the blankets
18 themselves.

19 **A. Oh. You mean to the door?**

20 **Q.** No. Not the door, but just -- just the
21 wall.

22 **A. Oh. The wall?**

23 **Q.** Yes.

24 **A. Oh. Well, I mean, like, right in front**
25 **of it. My feet were touching it. So I was close.**

1 **Q.** How were your feet touching -- your feet
2 were touching the wall?

3 **A. Yes. Because I was on my knees for a**
4 **while.**

5 **Q.** Okay. And then do you recall how far you
6 were from the pit with the rocks?

7 **A. I would guess 4 feet -- 4 or 5 feet**
8 **approximately.**

9 **Q.** Do you -- you mentioned Mark Shore
10 earlier. Do you recall -- or Mark Rock. Do you
11 recall where Mark was in the sweat lodge?

12 **A. I want to say that he was up here,**
13 **because they had a Dream Team member at each**
14 **direction. So he was at this end.**

15 **Q.** Okay. And do you recall what Dream Team
16 member was in your area?

17 **A. Josh Fredrickson.**

18 **Q.** Where was Mr. Ray?

19 **A. He was right here by the door.**

20 **Q.** Once -- do you recall how the sweat lodge
21 began?

22 **A. He gave us a little bit of instruction**
23 **about not leaving unless the door was open and then**
24 **staying away from the pit.**

25 **Q.** Was that once you were inside?

1 **A. And -- he may have given that to us**
2 **outside. I don't really remember. But I know he**
3 **did either before or right after.**

4 **Q.** Do you recall how he began the ceremony?

5 **A. He had -- he did some chanting, and then**
6 **he asked them to bring some rocks in. I don't even**
7 **remember how many. But at each round it was**
8 **between 8 and 12 rocks, as I recall.**

9 **Q.** I'm going to put up on the overhead
10 Exhibit 531 and ask you if you're able to recognize
11 what this is right here.

12 **A. Well, it's not the door. The door was**
13 **much taller.**

14 **Q.** Let me bring it to you. It's not showing
15 up real well on the overhead. Do you recognize
16 what this is right here?

17 **A. Oh. That thing that was hanging down are**
18 **pouches that we made on our Vision Quest.**

19 **Q.** How many pouches did you make on the
20 Vision Quest?

21 **A. I think eight.**

22 **Q.** What did they symbolize?

23 **A. They symbolized different things that we**
24 **were going to do once we were reborn -- or once we**
25 **left the sweat lodge, like our intentions and**

1 different things.

2 Q. When you got in the sweat lodge, did you
3 do something with the pouches?

4 A. Yes. We hung them up from the framework
5 right near us.

6 Q. And what I just had up on the overhead,
7 Exhibit 531 -- is this one or is this eight
8 pouches?

9 A. No. It's on a strand. So that's
10 probably got all eight pouches on it. Because it
11 looks like one strand. Because we did it on a
12 strand of string.

13 Q. Does the term "chakra" mean something in
14 this context?

15 A. I never heard it used in this context.

16 Q. These are just called "pouches"?

17 A. Yes.

18 Q. And you were told by whom to hang them
19 up?

20 A. I don't really remember.

21 Q. Do you recall whether all the
22 participants hung them up?

23 A. I think, for the most part, everyone did
24 because there -- there were quite a few hanging up
25 in there.

1 Q. Throughout the ceremony were you supposed
2 to do something with respect to the pouches?

3 A. Not that we were supposed to touch them
4 or anything. But I think we were supposed to go
5 over the -- what they represented during the
6 ceremony, like internally in our head. And I think
7 that's about it.

8 Q. And when the ceremony was over, were you
9 supposed to do something with your pouches?

10 A. Well, I think when the ceremony was over,
11 we were supposed to throw them in the fire. But it
12 didn't happen.

13 Q. Right. Before Mr. Ray began the
14 ceremony, was there any discussion from him about
15 leaving during the ceremony?

16 A. Yes. We -- we were told that it was a
17 sacred ceremony and that we were not to leave
18 unless the door was open in between rounds. And if
19 we left, we were also to go -- move clockwise
20 through the sweat lodge.

21 Q. As the ceremony began, Ms. Brinkley, what
22 was your intention in terms of your -- how long you
23 planned to stay inside the sweat lodge?

24 A. I didn't really have any intention about
25 necessarily staying for the whole thing, although I

1 ultimately did. I just thought I'd see how it
2 unfolded.

3 Q. Had you -- I believe you told us you had
4 never been in a sweat lodge before?

5 A. No.

6 Q. Had you been in a sauna before?

7 A. No.

8 Q. Beginning with the first round, then,
9 tell us what it was like.

10 A. Well, the first round was the clearest in
11 my mind at this point. He did a lot of chanting.
12 And yes. It did get hot. The first stones went
13 in.

14 And once they put the stones in and the
15 door was closed, there was, like, a dim light. You
16 could see people, figures in there. You couldn't
17 really see faces. But -- you know -- you could see
18 where people were. A lot of it was just chanting.
19 It was very hot.

20 That's about all I remember.

21 Q. And what was your reaction during the
22 first couple of rounds to the heat?

23 A. Well, the second round I started feeling
24 real itchy. And then I realized I was just
25 dripping, kind of like I had just got out of the

1 shower. It was just -- well, actually, it was more
2 like a shower dripping on me. That's how much I
3 was sweating.

4 And when it dawned on me how hot I was,
5 that is when I got on my knees, turned my face to
6 the tent -- the outside of the tent, and put my
7 face in the dirt.

8 Q. I'm going to put back up on the overhead
9 Exhibit 528. And show the jury, then, where your
10 face went at that point.

11 A. My face was facing that -- the wall of
12 the tent.

13 Q. And you said your face was down in the
14 dirt?

15 A. Yes.

16 Q. Physically touching the dirt?

17 A. Yes.

18 Q. And why did you do that?

19 A. Prior to entering the sweat lodge, Liz
20 Neuman gave information to Laura Tucker, Daniel
21 Granquist, and myself that if we got too hot to put
22 our face down by the ground because it was cooler.
23 And so I did.

24 Q. And did you find it was cooler down
25 there?

1 A. Yes, it was. Well, it was -- it was
 2 easier to breathe because I wasn't breathing in all
 3 the steam. And, yeah, it was cooler.
 4 Q. Did you observe whether the people around
 5 you did a similar thing?
 6 A. They didn't.
 7 Q. At some point in the ceremony, did you
 8 become aware of people calling out?
 9 A. I did.
 10 Q. And what did you first become aware of?
 11 A. It's kind of hard, and I don't
 12 particularly remember what order this was but -- or
 13 what round it was because I lost track after a
 14 while. I heard -- well, first of all, someone
 15 passed out on me. I think that was the first
 16 thing. Ami Grimes passed out on me, and she fell
 17 on my back. And so I started yelling for someone
 18 to come and get her. And eventually somebody did.
 19 Q. Did you -- do you recall when that was
 20 that Ami passed out on you?
 21 A. I could guess, but I am not really sure.
 22 And then --
 23 Q. Let me ask you a couple of more questions
 24 about Ami.
 25 A. Okay.

1 Q. How loud were you when you called out?
 2 A. I thought I was pretty loud because -- I
 3 felt like she was on my kidneys, and it was
 4 hurting. So I don't know. I might have yelled for
 5 20, 30 seconds before anybody really came.
 6 Q. And how many people were you seated from
 7 Mr. Ray --
 8 A. You mean --
 9 Q. -- inside the tent?
 10 A. Oh. From --
 11 Q. How many people away from you was
 12 Mr. Ray?
 13 A. James Ray?
 14 Q. Yes.
 15 A. I'm guessing six or seven.
 16 Q. Was the flap opened or closed when Ami
 17 fell on you?
 18 A. The flap was closed. But, again, I had
 19 my face down in the dirt. And so if they opened
 20 it, I -- I wouldn't have noticed.
 21 Q. And do you recall what you called out
 22 when you yelled out?
 23 A. I yelled something to the effect that Ami
 24 passed out. Well, I may not even have said her
 25 name. I don't remember. Someone is passed out on

1 me. You need to come get her. She's passed out.
 2 Q. What made you believe that Ami was passed
 3 out?
 4 A. Because I couldn't move her off of me,
 5 and she was not responding to me.
 6 Q. How -- what size of a person was Ami --
 7 is Ami?
 8 A. She's -- she's kind of a petite gal. I
 9 don't know. She's -- she's small. She's not tall
 10 or -- she's very thin. So I don't know.
 11 Q. Could you not get out from under her on
 12 your own?
 13 A. Well, I guess maybe just because I had my
 14 knees underneath me, I didn't have a lot of -- I
 15 wasn't really in a position to move too well
 16 because she was -- you know -- right on my lower
 17 part of my back.
 18 Q. Do you know who got Ami off of you?
 19 A. I don't.
 20 Q. And do you know what happened to Ami
 21 after that?
 22 A. I just know they took her out.
 23 Q. Did it concern you that Ami was passed
 24 out?
 25 A. Well, sure it concerned me. But I

1 trusted that they were taking care of her because
 2 they took her out.
 3 Q. Did you understand before the sweat lodge
 4 began that people might pass out?
 5 A. I don't particularly recall that that
 6 came up.
 7 Q. What do you remember happening next --
 8 well, actually, let me ask you a couple more
 9 questions about Ami. Do you know if Mr. Ray ever
 10 checked up on Ami?
 11 A. I don't know.
 12 Q. And can you tell the jury whether -- when
 13 Ami was taken out, was she taken out past Mr. Ray
 14 where he was seated?
 15 A. She had to have been because we were told
 16 only to move clockwise through the tent.
 17 Q. What do you remember next?
 18 A. I heard somebody screaming like they were
 19 in pain. And I didn't know until later who that
 20 was. So I didn't know then.
 21 Q. Who did you later learn -- find out it
 22 was?
 23 A. I found out later that Lou had fallen on
 24 the rocks and burned his arm.
 25 Q. Did you move or get up in any way when

1 you heard the screaming?

2 **A. No. Because I wasn't aware that he had**
3 **fallen and burned himself. Sometimes during**
4 **altered states, people --**

5 MR. KELLY: Your Honor, objection to last
6 portion as speculation.

7 THE COURT: Sustained as to the second
8 sentence.

9 **Q.** BY MS. POLK: And do you recall,
10 Ms. Brinkley, whether what you heard about Lou
11 falling in the pit was before or after Ami Grimes
12 passing out?

13 **A. I don't remember.**

14 **Q.** Around the time that Ami passed out on
15 your back, what was your mental condition?

16 **A. I was in and out. So I was --**

17 **Q.** In and out of what? What do --

18 **A. In and out of different states of**
19 **consciousness.**

20 **Q.** What do you mean by that? Will you
21 explain that to the jury.

22 **A. There was some periods where I was not**
23 **aware of what was happening. For instance, I**
24 **assumed James chanted through every -- every round.**
25 **But I don't remember.**

1 MR. KELLY: Your Honor, I'm going to object.
2 It's speculation.

3 THE COURT: Overruled.

4 **Q.** BY MS. POLK: You don't remember him
5 chanting through every round?

6 **A. No.**

7 **Q.** Were you aware of the passage of time?

8 **A. No. It was kind of very vague.**

9 **Q.** Do you think you were awake for the whole
10 time?

11 **A. No. I wasn't. I'm sure I wasn't.**

12 **Q.** And if you weren't awake, what do you
13 think your condition was?

14 MR. KELLY: Your Honor, objection.

15 THE COURT: Overruled.

16 MR. KELLY: Judge, I object to the form of the
17 question. It's asking for pure speculation. If
18 you're not conscious, you don't know what your
19 condition is.

20 THE COURT: Sustained.

21 **Q.** BY MS. POLK: What are you able to tell
22 the jury, Ms. Brinkley, about your state of
23 consciousness throughout the sweat lodge ceremony?

24 **A. Most of my memory of the sweat lodge is**
25 **auditory. And I have no doubt that I was not**

1 **conscious for the whole thing. In retrospect, if I**
2 **had been in --**

3 MR. KELLY: Your Honor, objection.

4 THE COURT: Yes. There is no question right
5 now, Ms. Brinkley.

6 Ms. Polk.

7 **Q.** BY MS. POLK: Looking back on the
8 incident, do you have a reflection on your state of
9 mind or your consciousness?

10 MR. KELLY: Your Honor, objection. Relevance.

11 THE COURT: It's foundation as to that type
12 of -- sustained as to foundation.

13 **Q.** BY MS. POLK: You had testified earlier,
14 Ms. Brinkley, about altered states. Were you in an
15 altered state in the sweat lodge?

16 MR. KELLY: Your Honor, may we approach.

17 THE COURT: Yes.

18 (Sidebar conference.)

19 THE COURT: Okay.

20 MR. KELLY: Judge, my difficulty is I don't
21 understand. We're going to try to speed this trial
22 up. So I thought there were going to be questions
23 about what she saw, what she heard, what she did,
24 not how she felt, what altered states are,
25 et cetera, whether she received coaching lessons.

1 It's completely irrelevant to manslaughter charge,
2 how she was feeling versus what she observed.

3 Now, if her altered state affects her
4 memory, I'd withdraw the objection. But some of
5 these questions, Judge, I don't understand the
6 relevance. And they're potentially highly
7 prejudicial.

8 THE COURT: Okay.

9 Ms. Polk.

10 MS. POLK: I am trying to speed things along.
11 And these objections obviously are not helping me
12 speed things along.

13 Her mental status is clearly relevant.
14 Her state of consciousness is clearly relevant as
15 to what she recalls today and what her testimony
16 is. There is no basis to be objecting to these
17 questions. She can talk about her state of mind,
18 whether she was awake, what her mental status was.

19 THE COURT: I have no problem with that at
20 all, Ms. Polk, about if she felt she was
21 unconscious and she explained why. Because -- you
22 know -- there were times when she felt she wasn't
23 hearing things or that. And I allowed the question
24 because she assumed there was chanting.

25 But to get into her lecturing now about

1 what she thinks an altered state is -- how she
2 feels, and how that affected her memory, what she's
3 perceiving, I agree that's there. But she's
4 already shown a tendency to go off and try to
5 explain, well, an altered state works this way.

6 I don't know -- I don't know what this
7 all is about, altered states. But she's entitled
8 to state what her state of mind is and what she was
9 able to perceive and what she was thinking at the
10 time to the extent it affected her conduct and what
11 she did and not do. But some of these questions
12 are just asking for her to just talk about altered
13 states in general.

14 MS. POLK: Your Honor, she has already
15 testified that she learned about altered state from
16 Mr. Ray. The jury has heard the briefing when
17 Mr. Ray said you will go into an altered state.
18 And that was one of the purposes of the sweat
19 lodge.

20 So for her to talk about whether or not
21 she believes she was in an altered state and what
22 she experienced is relevant.

23 THE COURT: Those two questions I would have
24 no problem with the way you phrased them that time.

25 Mr. Kelly?

1 MR. KELLY: Judge, and this has been asked and
2 answered. She has described her level of
3 consciousness throughout the sweat lodge. She has
4 described that most of her recollection is based on
5 what she heard, not saw, both due to her
6 consciousness and her position in the sweat lodge.

7 So now what are we going to go into?
8 Some discussion as to altered states? How is that
9 relevant?

10 THE COURT: A general discussion, no. If
11 Ms. Polk is going to ask, do you believe you're in
12 an altered state? Yes. And what she meant by
13 that. I'm going to allow that.

14 MR. KELLY: And, Your Honor, my objection was
15 to the final question. From memory it may be
16 wrong. But it was, in retrospect, how do you feel
17 about it?

18 THE COURT: Yeah. That -- no. I know.

19 MS. POLK: My final question was, do you
20 believe you were in an altered state? There was
21 not an objection. Sustained the objection to
22 the --

23 THE COURT: She started to say, in retrospect,
24 if I'd done, and she was going to go back.

25 MS. POLK: Your Honor, if you scroll down, you

1 can see that after that I moved on, and there was
2 another objection.

3 THE COURT: Looking back on the incident, do
4 you have a reflection on your state of mind or your
5 consciousness?

6 MS. POLK: That was sustained. And then I
7 asked, you testified about an altered state. Were
8 you in an altered state in the sweat lodge? And
9 then we approached.

10 THE COURT: And there is no objection yet. So
11 we were having this discussion. That's prefacing
12 it. What she understood an altered state to be and
13 what her actual mental state is as she recalls it,
14 that's permissible, I believe.

15 MS. POLK: That's what I'd like to ask. Were
16 you in an altered state and what did you
17 experience?

18 THE COURT: And I did not sustain an
19 objection, but there was an answer.

20 So, Mr. Kelly, that --

21 MR. KELLY: Judge, maybe I'm misunderstanding
22 this line of questioning. But if somehow she's now
23 going to opine that she was in an altered state and
24 does not remember accurately what happened in the
25 sweat lodge, then why is the State of Arizona

1 calling her as a witness. Because the risk is all
2 we're going to do is confuse the jury.

3 THE COURT: If she believes she's in an
4 altered state and then explains it, that's
5 permissible. Thank you.

6 (End of sidebar conference.)

7 THE COURT: Ms. Polk.

8 Q. BY MS. POLK: What do you remember next,
9 Ms. Brinkley, after hearing Lou?

10 **A. I heard Dennis Mehravar yelling out that**
11 **he felt like he was having a heart attack. I**
12 **recognized his voice. I've known Dennis for a**
13 **while. And he was -- I don't remember all his**
14 **words. Just something to the effect, I don't want**
15 **to die. I feel like I'm having a heart attack.**

16 Q. Did you hear Mr. Ray respond to that?

17 **A. He said, you're not having a heart**
18 **attack. You're going to be fine.**

19 Q. What do you recall after that?

20 **A. Well, I just know that he was yelling and**
21 **it lasted for a while. The yelling continued. I**
22 **could not tell you if he was inside or outside the**
23 **tent. I know it started inside, but I don't know.**

24 Q. Okay. And then what's the next thing you
25 recall happening inside the sweat lodge?

1 **A. In what I believe to have been the**
 2 **seventh round, I heard my friend Laura Tucker, who**
 3 **was directly across from me.**
 4 **Q.** I'm going to put back up 414.
 5 Show the jury where you believe Laura
 6 Tucker was.
 7 **A. Laura was, like, right here because Liz**
 8 **was at this spot. And she was a Dream Team member**
 9 **in the lodge.**
 10 **Q.** Liz Neuman?
 11 **A. Yes.**
 12 **And Laura yelled out that she was**
 13 **concerned about Liz, that she didn't seem to be**
 14 **responding. And James replied that Liz was okay.**
 15 **She's done this before. We'll address it when the**
 16 **round ends.**
 17 **Q.** Do you know if Mr. Ray when the round
 18 ended ever addressed the concern about Liz?
 19 **A. I don't believe he did, but I'm not sure.**
 20 **Q.** Why do you believe he did not?
 21 MR. KELLY: Your Honor, objection.
 22 THE COURT: Sustained.
 23 **Q.** BY MS. POLK: Did you ever see Mr. Ray
 24 check on anybody inside the sweat lodge?
 25 **A. No. He didn't move.**

1 **Q.** He never moved from his position?
 2 MR. KELLY: Your Honor, objection. Lack of
 3 foundation.
 4 THE COURT: Sustained.
 5 **Q.** BY MS. POLK: From your position in the
 6 sweat lodge, were you able to see Mr. Ray
 7 throughout the ceremony?
 8 **A. If I was turned around, yes. I could.**
 9 **But I mostly had my face in the dirt.**
 10 **Q.** Did you ever hear anybody yell out about
 11 a light?
 12 **A. I did. And the light was, like, back in**
 13 **this area here. I saw it out of the corner of my**
 14 **eye. But it was -- James was yelling, put out the**
 15 **flashlight. I don't really know if it was a**
 16 **flashlight or what it was.**
 17 **Q.** Do you recall when that was that you
 18 heard Mr. Ray yell out about a flashlight?
 19 **A. No. I don't remember.**
 20 **Q.** Do you recall anything more that Mr. Ray
 21 said about the light?
 22 **A. No. Just he was yelling, put out the**
 23 **flashlight.**
 24 **Q.** Did you know somebody named Greg Hartle?
 25 **A. Yes, I did.**

1 **Q.** Where was Greg Hartle sitting inside the
 2 sweat lodge?
 3 **A. I'm not 100 percent sure, but I was under**
 4 **the impression he was in this area right here.**
 5 **Q.** And who did you understand Greg Hartle to
 6 be?
 7 **A. Well, he was attending Spiritual Warrior**
 8 **as a participant; however, he was an employee of**
 9 **James Ray International.**
 10 **Q.** Did you ever hear a conversation between
 11 Mr. Ray and Greg Hartle during the ceremony?
 12 **A. I know that Greg got up and was leaving**
 13 **at one point.**
 14 MR. KELLY: Judge, it's nonresponsive.
 15 THE COURT: That's true.
 16 **Q.** BY MS. POLK: Did -- do you have an
 17 observation about James -- this is yes or no. Do
 18 you have an observation about Greg Hartle during
 19 the sweat lodge?
 20 **A. Yes.**
 21 **Q.** And do you recall when it was that you
 22 noticed Greg Hartle?
 23 **A. I don't recall when it was, but he was**
 24 **leaving.**
 25 **Q.** And how did you become aware that Greg

1 was leaving?
 2 **A. Because people were saying, Greg, you're**
 3 **more than that.**
 4 **Q.** Did you hear Mr. Ray say anything to
 5 Greg?
 6 **A. He's the one who said that.**
 7 **Q.** And did you hear Greg respond?
 8 **A. No.**
 9 **Q.** Did you see what Greg did after Mr. Ray
 10 talked to him?
 11 **A. I think he left.**
 12 MR. KELLY: Your Honor, objection. Lack of
 13 foundation.
 14 THE COURT: Sustained.
 15 **Q.** BY MS. POLK: Did you become aware of
 16 other people being taken out at any time during the
 17 ceremony?
 18 **A. Well, I knew that people were leaving**
 19 **because I had more space around me. The two people**
 20 **in front of me were gone -- which was Ami and my**
 21 **roommate Lynette. And so I had -- I actually ended**
 22 **up laying down flat eventually. So I knew a lot of**
 23 **people were leaving. But as far as exactly who and**
 24 **when, I couldn't tell you.**
 25 **Q.** When you laid down flat, where was --

1 were you face up or face down?
 2 **A. I was face down.**
 3 **Q.** Were you aware at any time of people
 4 being taken out?
 5 **A. No. Not other than Ami.**
 6 **Q.** Were you aware of somebody named
 7 Gabrielle Casineanu?
 8 **A. Yes.**
 9 **Q.** Do you know where Gabrielle was seated?
 10 **A. Well, I was about here. And she was in**
 11 **the row in front of me about at that spot. So she**
 12 **was a couple of people over.**
 13 **Q.** And what made you become aware of
 14 Gabrielle?
 15 **A. Towards the end of what I believe to be**
 16 **Round 7, she said, open the door, open the door.**
 17 **Because, like, her -- and at that point I was kind**
 18 **of turning around because I thought we were done.**
 19 **And I -- well, I knew that she was anxious to get**
 20 **out. And so was I. And so that's what drew my**
 21 **attention to her, because I was feeling the same**
 22 **way. Are we done yet?**
 23 **Q.** And did you hear -- what did you hear
 24 Gabriela say?
 25 **A. Open the door. Open the door.**

1 **Q.** Did you hear Mr. Ray respond?
 2 **A. I don't recall that he responded.**
 3 **Q.** Was the door opened or closed when you
 4 heard Gabrielle say that?
 5 **A. It -- I think it was closed.**
 6 **Q.** And did anybody open the door when
 7 Gabrielle said, open the door?
 8 **A. You know, I don't remember. But I know**
 9 **that we went into another round.**
 10 MR. KELLY: Your Honor, objection to the
 11 second portion.
 12 THE COURT: Sustained.
 13 **Q.** BY MS. POLK: What do you remember --
 14 when Gabrielle called out, open the door, open the
 15 door, the door was open or closed?
 16 MR. KELLY: Judge, it's been asked and
 17 answered. She doesn't remember.
 18 THE COURT: That's overruled.
 19 You may answer that if you can.
 20 THE WITNESS: I don't really remember if the
 21 door was open or closed. I was focused on
 22 Gabriela.
 23 **Q.** BY MS. POLK: And what happened, then,
 24 after -- what happened next in time after Gabriela
 25 called out, open the door?

1 **A. Well, I know we went into another round.**
 2 **But I don't remember if the rocks came in before**
 3 **she said it or after.**
 4 **Q.** Do you know if Gabriela was in for the
 5 last round?
 6 **A. Yes.**
 7 **Q.** And how long -- do you know how long the
 8 last round lasted?
 9 **A. I don't. Seemed like forever.**
 10 **Q.** How were you feeling at that time?
 11 **A. I was ready to leave too.**
 12 **Q.** Meaning what?
 13 **A. I -- I was exhausted. I was nauseous. I**
 14 **was just ready to be done.**
 15 **Q.** You testified earlier about an altered
 16 state. Were you in an altered state at anytime
 17 inside the sweat lodge?
 18 **A. Yes, I was.**
 19 **Q.** And when would you say you came into an
 20 altered state?
 21 **A. Probably around the third round.**
 22 **Q.** And describe for the jury what you were
 23 experiencing that you call an "altered state."
 24 **A. Well, I -- it's kind of hard to explain.**
 25 **It's kind of an inward thing. And you become kind**

1 **of oblivious to everything else, and you kind of**
 2 **turn inward and -- I don't know -- almost like a**
 3 **dream state or -- that's the best I can do. It's**
 4 **hard to explain.**
 5 **Q.** Did you ever think of leaving the sweat
 6 lodge before it -- it ended?
 7 **A. I don't remember if I did or not.**
 8 **Q.** Why did you stay in the sweat lodge the
 9 whole time?
 10 **A. I don't know. Honestly I don't know.**
 11 **Q.** Did you know someone named Stephen Ray?
 12 **A. I wasn't well acquainted with him. I had**
 13 **just met him at Spiritual Warrior.**
 14 **Q.** Do you know where he sat inside the sweat
 15 lodge?
 16 **A. I thought he was to my left, but I could**
 17 **be wrong. I thought he was.**
 18 **Q.** Were you ever aware of him during the
 19 ceremony?
 20 **A. I was aware of the person next to me, but**
 21 **I wasn't aware that -- and I wasn't real -- I knew**
 22 **the people were there. I could sense their**
 23 **presence and I could see their bodies, but I was**
 24 **not aware of their physical or mental conditions.**
 25 **Q.** Where you sat, Ms. Brinkley, did you

1 receive fresh air when the door opened?
 2 **A. No.**
 3 **Q.** And did you ever hear any comments about
 4 the air during the ceremony?
 5 **A. I don't remember.**
 6 **Q.** Did you ever talk during the ceremony?
 7 **A. Not that I'm aware of.**
 8 **Q.** Were you -- do you have any recollection
 9 today of how many people were inside the tent for
 10 that last round?
 11 **A. Probably less than half of what went in.**
 12 **Q.** Did you ever hear Mr. Ray address anybody
 13 other than Greg Hartle as they left the sweat
 14 lodge?
 15 **A. Yes. There were several instances. And**
 16 **I can't tell you who was leaving. But I did hear**
 17 **him saying that same thing. You're more than that.**
 18 **Q.** You're more than that?
 19 **A. Uh-huh.**
 20 **Q.** And had you heard that before at other
 21 events?
 22 **A. Yes.**
 23 **Q.** What did you understand you're more than
 24 that to mean?
 25 **A. It's my understanding that you're more**

1 **than you're body, you're more than your physical**
 2 **being.**
 3 **Q.** Do you recall how the ceremony ended?
 4 **A. I just remember the door opening. I**
 5 **don't know.**
 6 **Q.** And when it opened, what did you do?
 7 **A. I was beelining for the door right behind**
 8 **Gabriela.**
 9 **Q.** What did you do once you got out?
 10 **A. Well, I collapsed at the door. So**
 11 **somebody dragged me out. I don't even know who.**
 12 **Q.** And do you know where you were taken?
 13 **A. Well, they sprayed me down. I had dirt**
 14 **in my face because -- with the sweat and**
 15 **everything. And so my eyes were full of dirt too.**
 16 **So once I got out, I know they sprayed me down.**
 17 **And they -- I was over in this direction**
 18 **when I realized where I was laying. I was laying**
 19 **in the rocks out there.**
 20 **Q.** You were not on one of these -- I'm going
 21 to put up on the overhead Exhibit 145.
 22 Show the jury where you were when you
 23 became -- realized that you were out.
 24 **A. I was probably right in here. I was not**
 25 **on a tarp.**

1 **Q.** And do you have any recollection of how
 2 you got there?
 3 **A. No.**
 4 **Q.** What do you recall next?
 5 **A. I could not feel any sensation in my arms**
 6 **or legs. And so I started calling for someone to**
 7 **come and help me because I figured I needed to get**
 8 **my circulation moving. Eventually, Louie Lord**
 9 **Nelson and Daniel Granquist came. And they did --**
 10 **they started to massage my arms and legs. And**
 11 **Louie washed my eyes. She said, don't open your**
 12 **eyes. She washed my eyes off with water. And**
 13 **finally I could open my eyes and see. But I was**
 14 **just very exhausted and just feeling nauseous.**
 15 **Q.** And were you hot when you came out?
 16 **A. I was shivering after they sprayed me**
 17 **down. I was just shivering.**
 18 **Q.** And I want to ask you, when you first
 19 came out, were you hot?
 20 **A. I don't remember. You know, like I said,**
 21 **I collapsed at the door and they pulled me out. I**
 22 **remember the water hitting me. And then I was just**
 23 **freezing cold.**
 24 **Q.** How fast did you go to that stage of
 25 being freezing cold, if you can recall?

1 **A. I mean, instantaneously. It was pretty**
 2 **quick.**
 3 **Q.** What did you do, then, when you were
 4 freezing cold?
 5 **A. I asked for a blanket.**
 6 **Q.** Did somebody bring you a blanket?
 7 **A. Someone did bring me a blanket, but I**
 8 **don't know who.**
 9 **Q.** How long did you lie there?
 10 **A. Twenty or thirty minutes maybe. I don't**
 11 **know really. I didn't really have a good grasp on**
 12 **time.**
 13 **Q.** Was anybody else tending to you as you
 14 lay there?
 15 **A. Just Louie and Daniel.**
 16 **Q.** And what were they doing for you?
 17 **A. Like I said, they -- Louie washed the**
 18 **dirt off my eyes so I could open them and see**
 19 **without getting them full of crud. And then they**
 20 **were massaging my arms and legs until I got some**
 21 **sensation back. And they were being supportive and**
 22 **comforting.**
 23 **Q.** Did they get you anything to drink or
 24 eat?
 25 **A. I know that I didn't eat anything there.**

1 **And I don't think I drank anything, but I'm not**
2 **100 percent sure.**

3 **Q.** How -- when did you move from your
4 position that you've shown us?

5 **A.** I don't know. I said I wanted to go lay
6 down in my cabin. And eventually someone came in a
7 golf cart. And they helped me onto the golf cart
8 and drove me up to my cabin. Because it wasn't too
9 far from the sweat lodge.

10 **Q.** Were you aware of at some point emergency
11 first responders arriving?

12 **A.** I heard the helicopters, and I saw one
13 paramedic truck down in -- towards that direction.

14 **Q.** Where were you when you heard the
15 helicopter?

16 **A.** I want to say I was starting to get in
17 the golf cart when I heard the helicopters coming.

18 **Q.** Did somebody help you get into the golf
19 cart?

20 **A.** Yes.

21 **Q.** Who helped you?

22 **A.** I don't even know.

23 **Q.** What were you feeling at that time?

24 **A.** I just wanted to sleep. I was exhausted.

25 **Q.** Do you know how you got back to your

1 cabin?

2 **A.** Well, they took me in the golf cart. And
3 I want to say my roommates helped me. My roommates
4 had left the sweat lodge earlier on. And so they
5 were both outside helping other people. And they
6 actually came up to the cabin and got me settled in
7 there.

8 **Q.** Did you take a shower?

9 **A.** I did. I laid down for a little while.

10 And then when Rosie came up -- Rosie had previously
11 had some EMT training. And she said, you really
12 need to get in the shower. She thought I was --

13 **MR. KELLY:** Your Honor, objection to the
14 hearsay. This is Rosie's opinion.

15 **THE COURT:** Overruled.

16 You may complete your answer.

17 **THE WITNESS:** Okay. She thought that I was --
18 oh. I forget what you call it. But she thought I
19 was having that condition when you get really cold.
20 I can't remember what it's called right now.

21 But -- so she actually took me up to the
22 shower and helped me shower. I couldn't have done
23 it on my own. She helped me get cleaned up and
24 then got me back to the cabin where I laid down
25 again.

1 **Q.** **BY MS. POLK:** How long did you lay down
2 for?

3 **A.** I'm not even sure. I know I started to
4 doze off. And my roommate -- one of them -- well,
5 Lynette kind of stayed there. She was keeping an
6 eye on me. Rosie was in and out. And then at some
7 point we went up to the dinner hall -- dining hall.
8 And they had food up there. And I just ate some
9 toast because I felt really queasy. And then I
10 went back up to the cabin and laid down.

11 **Q.** How did you get up to the dining hall?

12 **A.** Rosie and Lynette walked with me.

13 **Q.** Could you have walked on your own?

14 **A.** I don't really know. I mean, I was very
15 weak. I probably wouldn't have wanted to try it.

16 **Q.** And when you were up at the dining hall,
17 did you notice whether any law enforcement
18 personnel were there then?

19 **A.** When I first went up there, there might
20 have -- I think there was some EMT people. But I
21 don't remember if there were any law enforcement.
22 They could have been.

23 **Q.** Did you get checked out by anyone at that
24 point?

25 **A.** No. Not until later.

1 **Q.** So you went back to your room. And what
2 happened?

3 **A.** I went back and laid down for a while. I
4 really don't know how long. And then someone --
5 and I think it was one of my roommates. I'm not
6 100 percent sure -- came and said, they want
7 everyone at the dining hall. They want to check
8 everyone. And so at that point I did go. And the
9 EMT did check -- check my vitals and everything.

10 **Q.** And after you got checked out by the EMT,
11 where did you go?

12 **A.** I went to the Valley Verde Medical
13 Center.

14 **Q.** How did you get there?

15 **A.** By ambulance or whatever you call it.

16 **Q.** Who did you ride with in the ambulance?

17 **A.** Okay. Who was with me? The couple from
18 Canada I remember distinctly was with me.

19 **Q.** Do you recall their names?

20 **A.** No, I don't. I would recognize their
21 faces, but I don't remember their names. I didn't
22 interact with them a lot during the week because
23 he, I think, was -- shaved his head and wore
24 glasses. But I'm trying to remember who else.

25 **Q.** And then what -- what happened once you

1 got to the hospital?

2 **A. Their concern was the possibility of**
3 **carbon monoxide poisoning.**

4 MR. KELLY: Your Honor --

5 THE WITNESS: However, the diagnosis for me
6 was heat exhaustion.

7 THE COURT: Mr. Kelly.

8 MR. KELLY: Forget it.

9 **Q. BY MS. POLK: You -- you said that --**
10 **that someone was concerned about carbon monoxide**
11 **poisoning?**

12 MR. KELLY: Your Honor, objection. Lack of
13 foundation.

14 THE COURT: Sustained.

15 **Q. BY MS. POLK: I'm going to put up on the**
16 **overhead Exhibit 167.**

17 Do you recognize your name --

18 **A. Yes.**

19 **Q. -- distinctly on this exhibit?**

20 **A. Yes.**

21 **Q. Do you know what time it was when you got**
22 **to the hospital?**

23 **A. I have no idea.**

24 **Q. And on this report we can see it says,**
25 **report date 10/9/2009 --**

1 **A. Okay.**

2 **Q. -- at looks like shortly after midnight.**

3 **A. Okay.**

4 **Q. How long were you at the hospital for?**

5 **A. My best guess would maybe be an hour and**
6 **a half to two hours.**

7 **Q. How did you get back -- from the hospital**
8 **back to Angel Valley?**

9 **A. I don't even remember.**

10 **Q. Do you recall how you were feeling at the**
11 **hospital?**

12 **A. I was really out of it. Again, I was**
13 **exhausted. I was nauseous. I had diarrhea.**

14 **Q. Do you recall whether you were given**
15 **information when you left the hospital?**

16 **A. They told me I was suffering from heat**
17 **exhaustion. And, of course, their advice to me was**
18 **to hydrate.**

19 **Q. And on this -- page 3 of this medical**
20 **record, it says, patient was given the following**
21 **educational materials: Heat exhaustion.**

22 **A. Yes.**

23 **Q. How --**

24 THE COURT: What is the number, please?

25 MS. POLK: This is Exhibit 167, Your Honor.

1 THE COURT: Thank you.

2 **Q. BY MS. POLK: How long did you stay at**
3 **Angel Valley, then, before leaving back for**
4 **California?**

5 **A. I want to say I left the following**
6 **morning around 11:00.**

7 **Q. After your experience at the Spiritual**
8 **Warrior 2009 event, did you send any correspondence**
9 **to Mr. Ray?**

10 **A. Yes.**

11 **Q. And what was your purpose in sending**
12 **correspondence to him?**

13 MR. KELLY: Your Honor, objection. Relevance.

14 THE COURT: Sustained.

15 **Q. BY MS. POLK: How were you feeling**
16 **after -- over the next few weeks after this event?**

17 MR. KELLY: Your Honor, objection. Relevance.

18 THE COURT: Sustained.

19 **Q. BY MS. POLK: You told us about your**
20 **roommates, Ms. Brinkley, Rosie Senjem and Lynette**
21 **Wachterhauser.**

22 **A. Yes.**

23 **Q. Do you know what round it was that they**
24 **left the sweat lodge during?**

25 **A. I don't know what round either one of**

1 **them left. However, I know Lynette was right in**
2 **front of me to the right. And so I know she left**
3 **early on because there was no one in front of me**
4 **at -- around the third or fourth round, somewhere**
5 **around. So I knew she left early on.**

6 **Q. Did you observe Lynette after the sweat**
7 **lodge ceremony?**

8 **A. You mean outside?**

9 **Q. Outside --**

10 **A. Yeah.**

11 **Q. -- that evening.**

12 **A. Yeah. She was with me a lot.**

13 **Q. Did you ever observe whether she was sick**
14 **in any way?**

15 MR. KELLY: Your Honor, objection. Lack of
16 foundation.

17 THE COURT: Overruled.

18 THE WITNESS: To my knowledge, she wasn't.

19 **Q. BY MS. POLK: And the same question for**
20 **Rosie Senjem?**

21 **A. No. To my knowledge, she was not.**

22 **Q. Was any medical information,**
23 **Ms. Brinkley, taken from you before you**
24 **participated in the sweat lodge ceremony?**

25 **A. None whatsoever.**

1 Q. And was there any screening done of you
2 before you participated in it?

3 A. No.

4 Q. During the briefing provided by Mr. Ray,
5 was there any discussions of one's condition to
6 participate in the sweat lodge ceremony?

7 A. **I remember particularly my roommate**
8 **Lynette Wachterhauser --**

9 MR. KELLY: Your Honor, objection. This is
10 nonresponsive.

11 MS. POLK: I can rephrase the question,
12 Your Honor.

13 THE COURT: Yes.

14 Q. BY MS. POLK: Was your roommate, Lynette,
15 there for the briefing that Mr. Ray provided?

16 A. Yes.

17 Q. And did she ask a question of Mr. Ray?

18 A. Yes.

19 Q. What question did she is ask?

20 MR. KELLY: Your Honor, objection. Hearsay.

21 THE COURT: Overruled.

22 THE WITNESS: She asked what you should do if
23 you have high blood pressure?

24 Q. BY MS. POLK: And did Mr. Ray respond?

25 A. Yes.

1 Q. And what did he say?

2 A. **He said that you need to listen to your**
3 **own body.**

4 Q. Listen to your own body?

5 A. Yes.

6 Q. With respect to the events of the week,
7 Ms. Brinkley, did you participate in everything?

8 A. Yes, I did.

9 Q. And why?

10 MR. KELLY: Your Honor, objection. Relevance.

11 THE COURT: Overruled.

12 THE WITNESS: I participated in everything
13 because I paid a lot of money to go there, and I
14 was going to get the most out of it.

15 Q. BY MS. POLK: Did you ever attempt to get
16 a refund?

17 MR. KELLY: Your Honor, objection.

18 THE COURT: Overruled.

19 THE WITNESS: I did not because the policy was
20 no refunds.

21 THE COURT: Yes or no. So the --

22 MR. KELLY: I ask that the answer be stricken.

23 THE COURT: It is. The answer is stricken.

24 Q. BY MS. POLK: Did there come a time
25 before you participated in Spiritual Warrior 2009

1 that you had changed your mind about wanting to
2 attend?

3 A. Yes.

4 MR. KELLY: Your Honor, objection. Relevance.

5 THE COURT: Sustained.

6 MS. POLK: Your Honor, may we approach?

7 THE COURT: Yes. We need to take the recess
8 at this time.

9 Now, ladies and gentlemen, please
10 remember the admonition.

11 And I want to speak with Ms. Brinkley a
12 minute.

13 As you know, the rule of exclusion of
14 witnesses has been invoked. That means you cannot
15 discuss the case or your testimony with any other
16 witness until the trial is over. You can talk to
17 the lawyers, though, as long as other witnesses
18 aren't present.

19 So I will excuse you, Ms. Brinkley, and
20 the jury at this time. Please reassemble in
21 15 minutes. We'll start as soon as we can after
22 that.

23 I'm going to ask that the parties remain.

24 (Proceedings continued outside presence
25 of jury.)

1 THE COURT: The record will show the jury has
2 left the courtroom. The witness has left also.

3 Back into these similar issues, the ones
4 that were dealt with at the start of the trial for
5 several weeks.

6 Ms. Polk, you asked to approach when
7 there was an objection to the question, did there
8 come a time before you participated in Spiritual
9 Warrior 2009 that you changed your mind about
10 wanting to attend? And I sustained a relevance
11 objection.

12 So, Ms. Polk.

13 MS. POLK: Your Honor, I had understood the
14 Court's earlier ruling on the issue of the refund
15 policy to be if there was somebody who had wanted
16 to get a refund for this event and was not able to
17 because of the refund policy that the refund policy
18 would be admissible. And this is such a witness.

19 THE COURT: Okay. I remember in writing that
20 ruling some time ago, I specifically discussed that
21 with regard to alleged victims -- or stated
22 victims.

23 Mr. Kelly.

24 MR. KELLY: Judge, the question is, why would
25 that be relevant to a manslaughter charge?

1 Possibly if one of the three identified victims in
2 the indictment stated because of the refund policy,
3 I can see it. But I -- our objection here is to
4 this fact witness. She showed up. She told what
5 happened in the sweat lodge. That's what's
6 relevant.

7 THE COURT: That -- the ruling did
8 specifically refer and say that may be admissible
9 with regard to alleged victims. Previously --
10 weeks ago when we were into this type of testimony,
11 some of this came up with regard to leading nature
12 of questions. I've indicated before that what
13 explains why people were in the sweat lodge is
14 relevant -- these witnesses, why you are in there
15 and explaining this -- this unusual event.

16 If that explains why she's in there -- I
17 think she really answered, though. She wanted
18 to -- to follow through, get her money's worth,
19 that kind of thing. So in an unleading fashion, if
20 people have reasons for why they're staying in the
21 sweat lodge, they can -- they can respond. That's
22 the best I can say. So we'll be in recess.

23 Thank you.

24 (Recess.)

25 THE COURT: Going back through these issues

1 that have been discussed so extensively at the
2 start of the trial and as the refund policy thing
3 comes up again. And this witness, I believe, has
4 already been asked her reasons as to why or why not
5 she stayed in. And I think she said she didn't
6 know.

7 Wasn't that the response essentially.

8 MR. KELLY: Judge, I -- my response was she
9 both said, I don't know why I stayed in so long,
10 but also she indicated that she was trying to get
11 her money's worth throughout the entire seminar.

12 THE COURT: And why she has completed that.

13 And what really happens, Ms. Polk, and I
14 said this, it's -- it's really inviting the jury to
15 speculate that somehow this is the real reason why
16 the stated or alleged victims stayed in. Just
17 inviting that kind of speculation when we know that
18 one person was involved in a number of these.

19 A lot of these people had participated in
20 a number of events. They knew the situation. And
21 to just have that speculation really is a focus
22 that's -- it is a true 403 concern.

23 Again, if somebody actually had that
24 reason in mind and that was a factor in staying in
25 there and that explains this whole situation, the

1 various mind-sets, that's one thing. If that's
2 something that's said in a -- and it comes up in a
3 nonleading fashion -- in a nonleading fashion and
4 it's truly a factor, then otherwise if they said
5 it, it invites speculation about the state of minds
6 of people who are alleged to be victims. So I want
7 to clarify that.

8 Thank you.

9 (Recess.)

10 (Proceedings continued in the presence of
11 jury.)

12 THE COURT: The record will show the presence
13 of Mr. Ray, the attorneys, and the jury.

14 Ms. Brinkley has returned to the witness stand.

15 Ms. Polk.

16 MS. POLK: Thank you.

17 Q. Ms. Brinkley, during the final rounds of
18 the sweat lodge, did you hear anything that
19 concerned you?

20 A. Yes.

21 Q. Tell the jury what you heard.

22 A. **I heard very wheezy breathing, like,
23 probably in the last couple of rounds.**

24 Q. What direction did you hear that

25 breathing coming from? I'm going to put back up

1 414.

2 A. **Okay. Well, I was about here. And I
3 heard it coming from this area here. It was
4 directly to my right.**

5 Q. Can you describe the breathing for the
6 jury.

7 A. **It was very labored. And it almost
8 sounded like somebody that had asthma. I have a
9 sister that had asthma, so I know what that sounds
10 like. So I knew someone was having some difficulty
11 but I didn't know what at the time.**

12 Q. Did the breathing concern you?

13 A. **It did. But I was still out of it. So
14 there wouldn't have been a whole lot I could have
15 done.**

16 Q. How long did that breathing go on for?

17 A. **Well, I want to say the last couple of
18 rounds until the end I heard it.**

19 Q. Did you hear anybody call out with a
20 concern?

21 A. **I didn't.**

22 Q. You testified earlier that you heard
23 someone call out with a concern about Liz Neuman?

24 A. **I did.**

25 Q. When was that that you heard someone call

1 out with a concern about Liz Neuman?

2 **A. Again, I kind of lost track of the**
3 **rounds. But if I had to guess, I -- I would say it**
4 **was maybe the sixth or seventh round, towards the**
5 **end.**

6 **Q.** How close in time was what you heard --
7 the concern that you've already testified about --
8 how close in time was that to the time when you
9 heard the labored breathing?

10 **A. I probably heard the breathing, that**
11 **heavy breathing, begin shortly after that.**
12 **Fifteen, twenty minutes is a good basis to guess.**

13 **Q.** The concern that -- when you heard
14 someone call out about Liz, will you tell the jury
15 what you heard.

16 **A. I heard my friend Laura Tucker -- I**
17 **recognized her voice -- say, Liz is having some**
18 **trouble here. I'm concerned about her. Those**
19 **might not have been her exact words, but that was,**
20 **in effect, what she was saying.**

21 **Q.** And what did you hear Mr. Ray say?

22 **A. Liz is okay. She's been in here before.**
23 **We'll wait until the next round ends to take care**
24 **of her.**

25 **Q.** We'll wait until the round ends to take

1 care of her?

2 **A. Something like that.**

3 **Q.** Are you sure that Mr. Ray at that time
4 stated, wait until the round is over and we'll take
5 care of her?

6 **A. Yes. I'm sure.**

7 **Q.** Were you conscious of the breathing until
8 the ceremony ended?

9 **A. Maybe not up to the very end. But I -- I**
10 **know that I heard it at least through the seventh**
11 **round.**

12 **Q.** And how many rounds were there?

13 **A. To my knowledge, there were eight total.**

14 **Q.** Do you recall today whether you heard the
15 breathing during the eight round -- eighth round --
16 during the eighth round? I'm sorry.

17 **A. Possibly at the beginning but maybe not**
18 **towards the end. Because at the end I was more**
19 **focused on wanting to get out.**

20 **Q.** I just need to go back and cover a
21 mistake that was drawn to my attention. I put up
22 on the overhead Exhibit 167, which is your medical
23 record from the Verde Valley Medical Center.

24 **A. Okay.**

25 **Q.** And I had drawn your attention to a time

1 up here. But as we look down below where it says,
2 time seen and date seen --

3 **A. Right.**

4 **Q.** -- do you see where it says, 10/8/2009,
5 10:34 p.m.?

6 **A. Yes.**

7 **Q.** Would that appear to be the time that you
8 were at the hospital?

9 **A. I had no sense of time, so I couldn't**
10 **even tell you.**

11 **Q.** Could be?

12 **A. Yeah.**

13 **Q.** And then, finally, I'd like to show you
14 Exhibit 1066 and ask you who that is in that
15 photograph.

16 **A. That's me.**

17 **Q.** And is that the haircut you got?

18 **A. Yes.**

19 **Q.** And do you recall what activity was going
20 on -- are you able to tell us what activity was
21 going on from this photograph?

22 **A. Well, this looks like -- I can tell this**
23 **is the meeting room. And sometimes we -- James**
24 **would give a short lecture, and then we would have**
25 **some discussion afterwards. So that looks like**

1 **that might have been what was happening there.**

2 **Q.** Thank you, Ms. Brinkley.

3 Thank you, Your Honor.

4 THE COURT: Thank you, Ms. Polk.

5 Mr. Kelly.

6 MR. KELLY: Thank you, Judge.

7 May I have just a minute, please?

8 THE COURT: Yes.

9 CROSS-EXAMINATION

10 BY MR. KELLY:

11 **Q.** Ms. Brinkley, how are you today?

12 **A. Fine. Thank you.**

13 **Q.** My name is Tom Kelly. I'm one of the
14 attorneys that represent Mr. Ray.

15 You and I have never met; correct?

16 **A. No.**

17 **Q.** And you have met my compadre, Truc Do,
18 during an interview; correct?

19 **A. Yes. In December.**

20 **Q.** And I believe that took place during
21 December of 2010?

22 **A. Yes.**

23 **Q.** Was she personally present, or was it
24 telephonic?

25 **A. Yes, she was.**

1 Q. Okay.
 2 May I approach the witness?
 3 THE COURT: Yes.
 4 Q. BY MR. KELLY: Ms. Brinkley, I'm going to
 5 hand you what has been marked for purposes of
 6 identification three interviews, which have been
 7 transcribed.
 8 A. Okay.
 9 Q. And I didn't help you do this. But if
 10 you turn them over and look at the very small
 11 numbers on the back, one of them should say
 12 Exhibit 629.
 13 Do you see that?
 14 A. Uh-huh.
 15 Q. Now, if you turn to the face page,
 16 Exhibit 629 is a transcript of an interview between
 17 you and Detective Pam Edgerton on October 8th,
 18 2009, at the Sedona Medical Center; correct?
 19 A. Yes.
 20 Q. And you recall that interview?
 21 A. I do.
 22 Q. This document says it was about
 23 15 minutes in length; correct?
 24 A. It could have been.
 25 Q. And then also, ma'am, if you take a look

1 at Exhibit 613 --
 2 A. Okay.
 3 Q. Did you find that one?
 4 A. Yes.
 5 Q. -- this one indicates that there was an
 6 interview between you and Detective Ross Diskin on
 7 June 9th, 2010; correct?
 8 A. Yes.
 9 Q. It says it's about 50 minutes in
 10 length --
 11 A. Yes.
 12 Q. 50 minutes; correct?
 13 A. Yes.
 14 Q. And you met Detective Diskin?
 15 A. Yes, I have.
 16 Q. Then, finally, I handed you the interview
 17 that we earlier referenced, Exhibit 615. And that
 18 was the interview conducted by Ms. Do on
 19 December 29, 2010, about an hour in length;
 20 correct?
 21 A. Yes. December 21st.
 22 Q. Oh. Thank you. December 21, about 59
 23 minutes and 8 seconds in length; correct?
 24 A. Yes.
 25 Q. Here's my first question -- and I ask you

1 to take a look at Exhibit 613, page 24, line 20.
 2 And -- and for the -- for the jury's benefit --
 3 A. Yes.
 4 Q. Okay. Did you get a chance to look at
 5 that?
 6 A. Uh-huh.
 7 Q. And for the jury's benefit, this is the
 8 interview between you and Detective Diskin in June
 9 of 2010 --
 10 A. Yes.
 11 Q. -- correct?
 12 And he asked you a question on line 20,
 13 did you hear any other comments or participants say
 14 that somebody was in distress or having trouble
 15 breathing or anything like that?
 16 A. Uh-huh.
 17 Q. And what was your response, ma'am?
 18 A. I said no, that Liz is the one I heard
 19 about. So I heard Laura talk about Liz.
 20 Q. What I'm going to do is I'm going to ask
 21 you to read your exact response to the jury, which
 22 begins on line 23.
 23 A. No. The Liz one is the one I heard. And
 24 I heard some other people talking. There were some
 25 comments about James and Kirby, but I honestly do

1 not recall them.
 2 Q. And you were attempting to answer the
 3 questions posed by the detective truthfully during
 4 June of 2010; correct?
 5 A. Yes, sir.
 6 Q. And in that response you indicate that
 7 you heard some comments about James and Kirby, but
 8 I honestly do not recall them; correct?
 9 A. That was afterwards.
 10 Q. And -- right. In between October 8th
 11 of 2009, and the date of this interview; correct?
 12 A. No. It was after the ceremony --
 13 Q. Okay.
 14 A. -- that I heard comments.
 15 Q. Well, between the end of the sweat lodge
 16 ceremony and the date of the interview. The first
 17 interview?
 18 A. Correct.
 19 Q. And the comments, I take it, were from
 20 other folks; correct?
 21 A. Right. When they -- yes.
 22 Q. In other words, other participants. And
 23 you gained that knowledge based on the
 24 conversations you heard with others; correct?
 25 A. Yes.

1 Q. Now, also on Exhibit 629, which was the
2 interview that took place back on October 8th,
3 2009, at the Sedona Medical Center, I read it
4 several times and I didn't see any reference to you
5 telling the detective that you heard what you
6 believed to be wheezing sounds, difficulty in
7 breathing, from the location where Kirby was.
8 Correct?

9 A. **I did not say that. No.**

10 Q. Then also in the final transcript of the
11 tape-recorded interviews conducted by Ms. Do, you
12 made no mention of hearing any sounds from the
13 location in which Kirby Brown was located; correct?

14 A. **I don't remember.**

15 Q. And if you need to take time and --
16 you're welcome to review the transcript. But do
17 you have any reason to dispute that it's not in
18 there?

19 A. **Probably not.**

20 Q. Now, each time you were attempting to be
21 truthful during your interviews with
22 Detective Edgerton on October 8th, Detective Diskin
23 in June, and Ms. Do in December; correct?

24 A. **Yes.**

25 Q. And let's talk for a minute about who has

1 spoke to you prior to your testimony. Okay? Okay?

2 A. **Do you mean between --**

3 Q. Let's start at the end of the sweat lodge
4 ceremony on October the 8th.

5 A. **Well, obviously all the participants were
6 in the dining hall the evening of the sweat lodge.
7 And there was a lot of discussion. It was in the
8 dining hall that I heard that James and Kirby
9 passed.**

10 Q. Right.

11 A. **So yes. There was a lot of discussion in
12 there. And we prayed and we just supported one
13 another.**

14 Q. And it was that evening that you went to
15 the hospital; correct?

16 A. **Yes.**

17 Q. And it was that evening, then, that you
18 were interviewed by the detective --

19 A. **Pam.**

20 Q. -- Pam?

21 And that interview was tape-recorded;
22 correct?

23 A. **I don't remember.**

24 Q. Okay. Now, there is a transcript in --
25 which we identified as Exhibit 613, I believe.

1 Correct?

2 A. **Okay.**

3 Q. Excuse me. Exhibit 629.

4 A. **Uh-huh.**

5 Q. Go ahead and take a look at it and see if
6 that refreshes your recollection as to the
7 conversation you had with the detective on
8 October 8th, 2009.

9 A. **Okay.**

10 Q. So my point is simply, you don't have any
11 reason to dispute that that interview was
12 tape-recorded; correct?

13 A. **No. I mean, obviously if it's
14 transcribed, it probably was tape-recorded.**

15 Q. And then secondly, after
16 October 8th, 2009, you had the conversation with
17 Detective Diskin; correct?

18 A. **Yes.**

19 Q. And, again, now I've presented to you
20 Exhibit 613, which is a transcript of that
21 interview. Were you aware that it was being
22 tape-recorded?

23 A. **The one with Detective Diskin?**

24 Q. Yes, ma'am.

25 A. **He probably told me. But right now I --**

1 Q. Okay. Same question, though. You don't
2 have any reason to dispute --

3 A. **No --**

4 Q. -- that, in fact, it was --

5 A. **-- no reason to dispute it.**

6 Q. -- correct?

7 And then, finally, Ms. Do conducted the
8 interview on December 21, 2010. And you knew it
9 was being tape-recorded?

10 A. **Yes, I did.**

11 Q. And, of course, the advantage to
12 tape-recording a conversation is that then the
13 actual conversation can be referred to if there's a
14 dispute as to facts; true?

15 A. **I don't know. I guess so.**

16 Q. Well, you're a teacher. You're educated.
17 I believe you have a master's degree in psychology
18 you told us; correct?

19 A. **No, I don't.**

20 Q. A bachelor's degree?

21 A. **Bachelor's.**

22 Q. And you know that if this tape-record- --
23 or excuse me, this conversation is tape-recorded
24 and someone wanted to know its content --

25 A. **Uh-huh.**

1 Q. -- an accurate way to memorialize that is
2 through an audio recording; correct?

3 A. **I can't answer that yes or no.**

4 Q. Well, I --

5 A. **May I explain?**

6 Q. Yeah. Please.

7 A. **Just because you have content in a
8 tape-recording doesn't mean that it's inclusive.
9 And it does not al- -- it does not mean that it is
10 all of the truth.**

11 Q. Now, you -- you would agree with me that
12 it provides a better record of the conversation
13 than if the conversation is not tape-recorded at
14 all?

15 A. **Yes. I would agree with that.**

16 Q. And between October 8th, 2009, and your
17 interview with Detective Diskin in June of 2010,
18 you were also interviewed by Sheila Polk, our
19 county attorney; correct?

20 A. **Yes, I was.**

21 Q. And that interview was not tape-recorded?

22 A. **No. I don't believe it was.**

23 Q. And in front of you is not an exhibit
24 marked for identification in this trial as to the
25 facts of that interview; correct?

1 A. **Correct.**

2 Q. Now, earlier you told us about the
3 presweat lodge presentation made by my client,
4 Mr. Ray.

5 Do you recall that testimony?

6 A. **Yes, I do.**

7 Q. And I take it, ma'am, that you're trying
8 to remember back some 19, 20 months since this
9 tragedy; correct?

10 A. **Yeah.**

11 Q. If this jury has into evidence
12 Exhibit 141, which is an audio recording of the
13 actual presentation --

14 A. **Uh-huh.**

15 Q. -- do you believe that would be a more
16 accurate recollection as to what was actually said
17 by Mr. Ray versus your memory some 20 months later?

18 A. **It would be accurate as to what he said
19 in the meeting room.**

20 Q. Correct.

21 A. **But it would not include what was said
22 outside of the meeting room.**

23 Q. Obviously it would not include what was
24 said before or after --

25 A. **Right.**

1 Q. -- only the portion which was
2 tape-recorded?

3 A. **Yes.**

4 Q. And during that tape-recording, to
5 refresh -- and you've told us what you remembered;
6 correct?

7 A. **Yes, I did.**

8 Q. And it's consistent, in my opinion, as to
9 what's on Exhibit 141 in many respects. But he
10 also told you and the other members during that
11 presentation that it was okay to leave the sweat
12 lodge during the ceremony; correct?

13 A. **Well, no. I can't say yes or no to that.**

14 Q. Okay. Well, let me try to refresh your
15 recollection some more. And he also told you that
16 if you were going to leave to leave in a clockwise
17 manner; correct?

18 A. **There was an addition to that.**

19 Q. And, also, he told you that when you were
20 leaving in a clockwise manner, be careful for the
21 legs and elbows and body parts of the people who
22 are still in the sweat lodge.

23 Does that refresh your recollection?

24 A. **He may have said that.**

25 Q. Well, let me ask you this question: Do

1 you remember Mr. Ray asking the crowd something to
2 the effect, now if you're going to leave, what
3 direction do you go?

4 A. **Yes.**

5 Q. And the crowd responding, clockwise?

6 A. **Clockwise. Yes, I do.**

7 Q. So Exhibit 141, you agree with me, speaks
8 for itself; correct?

9 A. **I haven't seen Exhibit 141, so I can't
10 say.**

11 Q. You have to understand, if this jury has
12 Exhibit 141, which is that conversation recorded --

13 A. **Okay.**

14 Q. -- then Exhibit 141 is better than Tom
15 Kelly's recollection as to what's on it; correct?

16 A. **Not necessarily.**

17 Q. Okay. Maybe I'm perfect, but I doubt it.
18 During that conversation he advised you
19 folks on how to get out of the sweat lodge if -- if
20 you needed to; correct?

21 A. **Yes.**

22 Q. And you knew that going into the sweat
23 lodge was your choice; correct?

24 A. **I can't answer that yes or no. May I
25 explain?**

- 1 Q. Sure.
- 2 A. Okay. I made a -- you want me to say
- 3 that it was my choice?
- 4 Q. I just want the truth.
- 5 A. I guess perhaps it was with -- based on
- 6 the information I had at the time believing that
- 7 James Ray was trained as a sweat lodge leader,
- 8 which I have personally consulted with experts who
- 9 tell me he is not.
- 10 Q. Let's talk about choice.
- 11 A. Yeah. Let's talk about it.
- 12 Q. You made the choice to attend the
- 13 Spiritual Warrior seminar; correct? Correct?
- 14 A. No.
- 15 Q. You made the choice to pay the \$10,000 to
- 16 attend the seminar; correct?
- 17 A. I did.
- 18 Q. You made the choice to have your hair
- 19 cut -- not to have your hair cut on the first day;
- 20 correct?
- 21 A. Yes.
- 22 Q. You made the choice to have your hair cut
- 23 on the second day; correct?
- 24 A. Yes, I did.
- 25 Q. You made the choice to participate in

- 1 each and every exercise or event leading up to the
- 2 sweat lodge; correct?
- 3 A. Yes.
- 4 Q. You were present when other people made
- 5 the choice to leave the Spiritual Warrior seminar;
- 6 correct?
- 7 A. I have no knowledge of anyone leaving.
- 8 Q. You were present when people after
- 9 hearing the presweat lodge presentation made the
- 10 choice not to enter the sweat lodge; correct?
- 11 A. I have no knowledge of who did not enter.
- 12 Q. During the sweat lodge you were aware
- 13 that people made the choice to leave between the
- 14 rounds during the sweat lodge; correct?
- 15 A. Yes.
- 16 Q. In fact, I believe you told us about half
- 17 of them left; correct?
- 18 A. Probably.
- 19 Q. And at no time did James Ray prevent
- 20 anyone from leaving; correct?
- 21 A. I can't say yes or no to that.
- 22 Q. And at no time did James Ray force anyone
- 23 to enter; correct?
- 24 A. I don't believe he forced anyone to
- 25 enter.

- 1 Q. And my question is, then, Ms. Brinkley,
- 2 is that not exercising free choice?
- 3 A. No, it is not. I'd be happy to explain
- 4 if you want me to.
- 5 Q. Take a look at Detective Pam's interview
- 6 on page 6, line 4. Do you recall her asking the
- 7 question?
- 8 A. Other than reading this, I don't really
- 9 recall the questions. No.
- 10 Q. Please take a look at page 6, line 4.
- 11 Ms. Edgerton asked the question, anything said -- I
- 12 mean, everybody was free to come and go.
- 13 Please read your response to the jury?
- 14 A. I'm sorry. Did you say page 6?
- 15 Q. Page 6, line 4. Detective Edgerton,
- 16 anything said -- I mean, everybody was free to come
- 17 and go.
- 18 Please read your response to the jury.
- 19 A. I said, they were. And you know what, we
- 20 all were explained about the sweat lodge very
- 21 clearly before we went in. It was a choice that we
- 22 made.
- 23 Q. Now, you told the detective that you knew
- 24 on that day that it was going to be very hot;
- 25 correct?

- 1 A. Yes.
- 2 Q. That it was going to be intense; correct?
- 3 A. Uh-huh.
- 4 Q. Correct?
- 5 A. Yes.
- 6 Q. That people -- the detective -- let me
- 7 read further to refresh your recollection. The
- 8 detective asked you, I mean, there wasn't any kind
- 9 of, oh, come on, tough it out?
- 10 And what was your response?
- 11 A. Yes, there was.
- 12 Q. And she said, there was?
- 13 And what was your response?
- 14 A. That a lot of people were doing
- 15 that in- -- well, I don't know if I said --
- 16 Q. Just read your response.
- 17 A. Yeah. There were a lot of people doing
- 18 that, but I didn't because I think it's everyone's
- 19 choice. They needed to decide for themselves.
- 20 Q. So on October 8th, 2008, at the Sedona
- 21 Medical Center, you told the detective that you
- 22 were exercising free choice; correct?
- 23 A. I did not say that specifically.
- 24 Q. Turn back to page 6, line 6. Did you not
- 25 tell the detective it was a choice that we made?

1 **A. Yes.**
 2 **Q.** Page 6 --
 3 **A. Okay.**
 4 **Q.** -- line 16 and 17. Yeah, there was
 5 people doing that, but I didn't because I think
 6 it's everyone's choice. They needed to decide for
 7 themselves. Correct?
 8 **A. Depends on how you define "choice."**
 9 **Q.** Well, again, you're educated --
 10 **A. Uh-huh.**
 11 **Q.** -- had a bachelor's degree on
 12 October 8th, 2009; correct?
 13 **A. Yes.**
 14 **Q.** Detective Pam Edgerton identified herself
 15 as a police officer; correct?
 16 **A. Yes, she did.**
 17 **Q.** You knew that she was conducting an
 18 interview in regards to what had happened on that
 19 day; correct?
 20 **A. Yes.**
 21 **Q.** And you knew the importance of providing
 22 true and correct answers; correct?
 23 **A. Yes.**
 24 **Q.** And Detective Pam Edgerton would not have
 25 prevented you from asking her a question; correct?

1 **A. Probably not.**
 2 **Q.** She seemed like a compassionate,
 3 professional police officer; correct?
 4 **A. Yes.**
 5 **Q.** And if you needed a definition of a term,
 6 you believe she would have provided it for you?
 7 **A. I don't need anyone to give me a**
 8 **definition of that term.**
 9 **Q.** Well, what I did read to the jury was
 10 absolutely correct; correct?
 11 **A. No.**
 12 **Q.** Okay. Well, please take a look --
 13 **A. I will be more than happy to explain.**
 14 **Q.** Please, before we go any further, take a
 15 look at Exhibit 629 and read to this jury the
 16 portion that I -- that is not correct that you
 17 read.
 18 **A. The portion that is not correct is not in**
 19 **this interview.**
 20 **Q.** Do you understand my question?
 21 **A. I do. But I'm telling you it's not in**
 22 **this interview.**
 23 **Q.** What portion of that transcript that you
 24 read to this jury was not read accurately?
 25 **A. The portion that is not correct is not in**

1 **the interview.**
 2 **Q.** You told us a moment ago that, I believe,
 3 you now believe in retrospect that you were in an
 4 altered state during the sweat lodge; correct?
 5 **A. Yes.**
 6 **Q.** And an altered state is a condition in
 7 which you are almost dreamlike; correct?
 8 **A. That's a vague description.**
 9 **Q.** Well, this is your description. That's
 10 why I'm asking you. In a dream state you said;
 11 correct?
 12 **A. Yes.**
 13 **Q.** Pardon me?
 14 **A. That's what I said.**
 15 **Q.** So you're in an altered state, in almost
 16 a dreamlike existence; correct?
 17 **A. Yeah.**
 18 **Q.** And you used the word "oblivious." You
 19 were oblivious to what was going on around you?
 20 **A. There were times when I was. Yes.**
 21 **Q.** So as you sit here today under oath in
 22 front of Judge Darrow and this jury, are you saying
 23 that during the eight rounds of the sweat lodge
 24 ceremony you were in an altered state?
 25 **A. Not during the whole time. No.**

1 **Q.** Okay. Well, explain to the jury those
 2 portions in which you were not in an altered state
 3 versus those portions in which you were.
 4 **A. There were times when I was very aware of**
 5 **conversations -- people talking in the sweat lodge.**
 6 **There were times when I was aware of James**
 7 **chanting. I was aware when the thing with the**
 8 **light happened. I saw the light towards the north**
 9 **end of the sweat lodge. I was aware of people**
 10 **moving. I knew when the people in front of me left**
 11 **because it was very crowded at the beginning, and**
 12 **then there was more space, like, maybe two-thirds**
 13 **of the way through. Those are some examples.**
 14 **Q.** So it sounds like it was pretty sketchy,
 15 your memory?
 16 **A. My memory is not sketchy. What I**
 17 **remember, I remember.**
 18 **Q.** What you remember, you remember?
 19 **A. Yes.**
 20 **Q.** And the fact you were in an altered,
 21 dreamlike state, oblivious to what was going around
 22 you, has not affected that memory; correct?
 23 **A. No.**
 24 **Q.** Is that correct?
 25 **A. Yes. That's correct. It has not**

1 **affected me.**

2 **Q.** And you told the jury that there were
3 times in which you were not conscious; correct?

4 **A. Yep.**

5 **Q.** There were times that you had passed out,
6 so to speak; correct?

7 **A. I can't say yes or no to that.**

8 **Q.** Okay. There was times that perhaps you
9 fainted?

10 **A. No. I did not faint.**

11 **Q.** But you were not conscious?

12 **A. Possibly.**

13 **Q.** Possibly. Now, is that a part that you
14 don't have a clear recollection of, or is it --

15 **A. They're just blanks.**

16 **Q.** Blanks?

17 **A. Yes.**

18 **Q.** So when there are blanks, are you not
19 conscious?

20 **A. I -- I don't know. We're always**
21 **conscious.**

22 **Q.** See, when I say "sketchy," I don't --
23 if -- if you're in an altered state, in a dreamlike
24 existence, oblivious to what's going on around you
25 part of the time -- and I believe your testimony

1 was that part of the time you're unconscious, and
2 then part of the time you're able to recollect
3 what's going on.

4 **A. That's right.**

5 **Q.** So part of the time you were not
6 conscious; correct?

7 **A. Probably not.**

8 **Q.** Now, you recall going to the EMTs -- EMS
9 providers back on October 8th, 2009?

10 **A. Yep.**

11 **Q.** I believe you gave us the history of how
12 you left the sweat lodge or cooled off, went up to
13 your room, went back to the hall, went back to your
14 room. Somebody said, let's go down and see the EMT
15 guy.

16 **A. Yes.**

17 **Q.** And when you went down to see the EMT
18 guy, were you in an altered state?

19 **A. I was exhausted, but I can't say I was in**
20 **an altered state. I was conscious of what was**
21 **happening around me.**

22 **Q.** Were you able to respond to his questions
23 truthfully?

24 **A. I guess so.**

25 **Q.** Were you able to understand his questions

1 about your medical condition?

2 **A. To my knowledge, yes.**

3 **Q.** Did you have any difficulty understanding
4 his English or the language that he used?

5 **A. No.**

6 **Q.** So let's take a look at Exhibit 168.

7 Now, Ms. Brinkley, Exhibit 168 is your
8 Verde Valley Ambulance Company Medical Report;
9 correct?

10 **A. I can't really read it very well.**

11 **Q.** Well, let's get it for you so you can
12 read it.

13 May I approach, Judge?

14 THE COURT: Yes.

15 **Q.** BY MR. KELLY: With the state's
16 permission, I'll allow the witness to look at my
17 copy, and we'll find 168 before we go to lunch.
18 Mine has been highlighted and there's some red ink,
19 so ignore that. But have you had a chance to take
20 a look at Exhibit 168?

21 **A. You just gave it to me.**

22 **Q.** All right. It's from the Verde Valley
23 Ambulance Company.

24 **A. Okay.**

25 **Q.** You see the box that says, loss of

1 consciousness, no?

2 **A. Yes, I do.**

3 **Q.** And if we go back into the narrative,
4 does it not say, patient denies syncope?

5 **A. Yep.**

6 MR. KELLY: Your Honor, is this a good time
7 for the lunch?

8 THE COURT: Yes.

9 I'd like to see the attorneys just about
10 scheduling for a minute.

11 We're in recess. I'll go ahead and
12 excuse the jury.

13 I want to see -- I want to get a
14 scheduling for this afternoon, so I just want to
15 talk about that.

16 Mr. Kelly and Ms. Polk, would you please
17 approach.

18 (Sidebar conference.)

19 MS. POLK: She's leaving on the 4:05 shuttle.

20 MR. KELLY: Just a few more.

21 THE COURT: All right.

22 (End of sidebar conference.)

23 THE COURT: We'll go ahead and take the
24 regular break, ladies and gentlemen. Please
25 remember the admonition and be back at 1:30. We're

1 going to start as soon as possible after that. And
 2 remember the admonition, again.
 3 And, Ms. Brinkley, please remember the
 4 rule of exclusion.
 5 And we'll be in recess.
 6 Thank you.
 7 (Recess.)
 8 THE COURT: The record will show the presence
 9 of Mr. Ray, the attorneys, the jury. And
 10 Ms. Brinkley is on the witness stand.
 11 Mr. Kelly, you may continue with
 12 cross-examination.
 13 MR. KELLY: Thank you, Judge. May I approach
 14 the witness?
 15 THE COURT: Yes.
 16 Q. BY MR. KELLY: Ms. Brinkley, we found the
 17 original Exhibit 168, so I'm going to hand that to
 18 you --
 19 A. Okay.
 20 Q. -- and ask that Mr. Li perhaps put it
 21 back up. And in the large paragraph -- excuse me.
 22 If you could blow up the middle paragraph
 23 and make it larger.
 24 There is a history section that we were
 25 discussing with the jury before lunch. And it

1 includes, patient was in sweat lodge when she began
 2 to feel out of it; correct?
 3 A. Yes.
 4 Q. Now, do you remember telling the EMT
 5 something along those lines?
 6 A. I don't remember.
 7 Q. Okay. Then it says, denies syncope at
 8 any; correct?
 9 A. That's what it says.
 10 Q. And then we had discussed right below
 11 that, there is a box entitled "Loss of
 12 Consciousness." And the box is checked no;
 13 correct?
 14 A. Yes. It is checked no.
 15 Q. And right next to the loss of
 16 consciousness box, there is a box that says, near
 17 syncope. And that also is checked no; correct?
 18 A. Yes. It is checked no.
 19 Q. Now, again, ma'am, this information,
 20 according to Exhibit 168, was taken at
 21 approximately 2151 to 2200 hours, which, I believe,
 22 is 9:51 to 10:00 p.m.; correct?
 23 A. That's what it says.
 24 Q. On October 8th, 2009; correct?
 25 A. That's what it says.

1 Q. And it also says your name; correct?
 2 A. Uh-huh.
 3 Q. And you were, in fact, treated or
 4 administered aid by an EMT or someone of that type;
 5 correct?
 6 A. I don't believe I was administered aid
 7 until I got to the Verde Valley Medical Center.
 8 Q. Okay. But you were -- you recall your
 9 pulse being taken?
 10 A. I don't really remember. I just remember
 11 sitting there.
 12 Q. Do you recall an EMT looking at your
 13 pupils?
 14 A. No.
 15 Q. Taking your temperature?
 16 A. No. I don't recall.
 17 Q. Asking you questions about what happened?
 18 A. I remember they asked me questions. I
 19 couldn't tell you what they asked me.
 20 Q. And this Exhibit 168 indicates that the
 21 patient is showing signs and symptoms of carbon
 22 monoxide poisoning; correct?
 23 A. I don't know. Where do you see that?
 24 Q. It's in the response to treatment
 25 paragraph on the bottom.

1 A. That's what it says.
 2 Q. And due to number of patients at
 3 incident, something rehab is used to transport
 4 these due to their BLS status. Correct?
 5 A. I don't know where you are.
 6 Q. The next sentence.
 7 A. At the bottom?
 8 Q. Yes.
 9 A. Yes. That's what it says.
 10 Q. So then you were transported to the Verde
 11 Valley -- or the Sedona Medical Center; correct?
 12 A. To the Valley Verde Medical Center.
 13 Q. And let's take a look at --
 14 May I approach, Judge?
 15 THE COURT: Yes.
 16 Q. BY MR. KELLY: Exhibit 167. And you told
 17 this jury before lunch that you were diagnosed with
 18 heat exhaustion; correct?
 19 A. Yes.
 20 Q. And if we take a look at Bates stamp
 21 1623 --
 22 A. Uh-huh.
 23 Q. -- in this paragraph of history of
 24 present illness, Exhibit 167, says, the patient
 25 presents with nausea and vomiting; correct?

1 **A. That is not correct.**
 2 **Q.** I didn't read that correct.
 3 **A. No. That's what it says --**
 4 **Q.** Let's try it again.
 5 **A. -- but that is not correct.**
 6 **Q.** Hold on a second.
 7 **A. Sorry.**
 8 **Q.** Does it not say that, the patient
 9 presents with nausea and vomiting?
 10 **A. It does say that. Yes.**
 11 **Q.** And if you turn the page to 1624 --
 12 MS. POLK: Your Honor, pursuant to Rule 106, I
 13 would ask that the rest of that paragraph be read.
 14 THE COURT: It's going to be at some point,
 15 Mr. Kelly. So if you cover it now --
 16 MR. KELLY: I'll come back to it, Judge.
 17 But may I continue my line of
 18 questioning?
 19 THE COURT: Yes.
 20 **Q.** BY MR. KELLY: If you turn to page 1627
 21 and under the paragraph entitled "Diagnosis," the
 22 diagnosis is nausea and vomiting; correct?
 23 **A. That's what it says on this page.**
 24 **Q.** And then if we go right below that, the
 25 portion asked of you by the prosecutor, patient was

1 given the following educational materials: Heat
 2 exhaustion; correct?
 3 **A. Yes.**
 4 **Q.** Now, let's go back to the paragraph,
 5 history of present illness, at the request of
 6 Ms. Polk, which is Bates stamped 1623. I -- I
 7 asked you a question about the first sentence, the
 8 patient presents with nausea and vomiting; correct?
 9 **A. Yes.**
 10 **Q.** And the complete paragraph says, the
 11 onset was just prior to arrival. The course,
 12 duration of symptoms, is improving. The character
 13 of symptoms is clear. The degree at present is
 14 minimal. Exacerbating factors consistent, none.
 15 The relieving factor is none. Risk factors
 16 consistent, none. Therapy today, none. Associated
 17 symptoms, diarrhea. Additional history, none.
 18 Patient involved in a fast for 24 hours on
 19 Wednesday, sweat lodge Thursday with high
 20 temperatures, never quit sweating. Correct?
 21 **A. Correct.**
 22 **Q.** So it says, never quit sweating; correct?
 23 **A. That's what it says.**
 24 **Q.** Involved in a retreat at Angel Valley
 25 Ranch with seminar, 24 hour fast, and sweat lodge

1 experience; correct?
 2 **A. Yes.**
 3 **Q.** Now, this document up at the heading
 4 indicates that you were treated by a medical
 5 doctor; correct?
 6 **A. Yes.**
 7 **Q.** And you recall meeting with the doctor;
 8 correct?
 9 **A. Can you say that again, please?**
 10 **Q.** I said you recall meeting with a doctor;
 11 correct?
 12 **A. Yes. I remember the doctor.**
 13 **Q.** And his name was Dr. Dean, Forrest Doyle
 14 Dean; correct?
 15 **A. That's what it says. I didn't remember**
 16 **it until I saw it.**
 17 **Q.** And I -- I understand your reluctance to
 18 agree with Exhibit 167. You're saying his
 19 diagnosis today is not correct; right?
 20 **A. No. That's not what I'm saying.**
 21 **Q.** You're saying his diagnosis today of
 22 nausea and vomiting is contrary to your
 23 recollection; correct?
 24 **A. Yes.**
 25 **Q.** You're saying that you remember the

1 doctor telling you that you had heat exhaustion;
 2 correct?
 3 **A. The doctor did tell me that. I'm saying**
 4 **there's a -- there's a mistake in what this says.**
 5 **Q.** So you're saying a medical doctor
 6 employed by the Verde Valley Medical Center in a
 7 written document that he signed has made a mistake
 8 as to your diagnosis?
 9 **A. No. I'm not saying that at all.**
 10 **Q.** Well, correct me if I'm wrong, but it did
 11 say, diagnosis: Nausea and vomiting; correct?
 12 **A. The diagnosis was heat exhaustion.**
 13 **Q.** Well, answer my question. It does say
 14 that?
 15 **A. You told me to correct you if you were**
 16 **wrong. And that's what I'm doing.**
 17 **Q.** Ms. Brinkley --
 18 **A. Yes.**
 19 **Q.** -- please take a look at Exhibit 167.
 20 **A. I looked at it.**
 21 **Q.** I'm not saying anything. I'm asking you
 22 if Bates stamp 1627, the diagnosis, indicates
 23 nausea and vomiting. Is that correct?
 24 **A. Yes.**
 25 **Q.** Your testimony today is that Dr. Dean was

1 wrong in entering those words on Exhibit 167?

2 **A. Not all of them.**

3 **Q.** Exhibit 167 further states that you were
4 given the following educational materials: Heat
5 exhaustion; correct?

6 **A. Yes.**

7 **Q.** And so I understand, your testimony is
8 today that you were diagnosed with heat exhaustion,
9 which is contrary to the words in Exhibit 167;
10 correct?

11 **A. No. That's not correct.**

12 **Q.** Then you were diagnosed with vomiting and
13 nausea?

14 **A. I did not have vomiting. I only had**
15 **nausea. That is my correction. I had not vomited**
16 **up to that point.**

17 **Q.** And you were not diagnosed with heat
18 exhaustion?

19 **A. Yes, I was. The doctor verbally told me,**
20 **you have heat exhaustion.**

21 **Q.** And he just failed to put that in
22 Exhibit 167?

23 **A. He has it at the bottom.**

24 **Q.** Well --

25 **A. They often make mistakes in medical**

1 **reports. I've seen it. There were many mistakes**
2 **in these transcripts that I read.**

3 **Q.** Well, and that's what I'm asking about.

4 Now, your testimony today in front of this jury is
5 that a doctor, a medical doctor, in his patient
6 report has made a mistake in that when he meant to
7 say, diagnosis: Nausea and vomiting, what he
8 really meant to say was nausea and heat exhaustion?

9 **A. I don't know what he meant to say. I**
10 **can't speak for him.**

11 **Q.** Well, you're telling us there's a mistake
12 in Exhibit 167.

13 **A. I said there was a mistake in the fact**
14 **that I was not vomiting. That is incorrect. I was**
15 **nauseous.**

16 **Q.** And there's also a mistake in that under
17 diagnosis, it does not say heat exhaustion;
18 correct?

19 **A. I don't know if that's a mistake or not.**
20 **I'm not a doctor.**

21 **Q.** And it's a mis- -- it is true that you
22 were given educational materials about heat
23 exhaustion; correct?

24 **A. Yes.**

25 **Q.** And I guess also on Exhibit 168, it's a

1 mistake from the EMS provider that you told him

2 that you did not lose consciousness; correct?

3 **A. Well, my body was in distress, so I don't**
4 **remember what I told them.**

5 **Q.** Well --

6 **A. I can't answer that.**

7 **Q.** And I understand that. If you're in an
8 altered state with a dreamlike experience and
9 oblivious to what's going on around you, then you
10 would agree with me that your memory as to what's
11 going on may not be --

12 **A. I don't agree with that.**

13 **Q.** -- accurate; correct?

14 **A. I do not agree with that.**

15 **Q.** So then the EMS provider on Exhibit 168
16 made a mistake?

17 **A. I don't know if they made a mistake.**

18 **Q.** See, I'm confused because --

19 **A. Obviously.**

20 **Q.** -- if you may have told him that because
21 you were in an altered state, then that would be a
22 mistake because you told this jury you lost
23 consciousness. Do you understand that logic?

24 **A. No, I don't.**

25 **Q.** Okay. So what you want this jury to

1 believe are certain aspects of your experience that
2 incriminate my client and not consider aspects of
3 your experience which exculpates him; correct?

4 **A. No. I'm sorry. I'm telling the truth of**
5 **what I know. It has nothing to do with whether or**
6 **not I'm trying to incriminate anyone. That's not**
7 **my intention.**

8 **Q.** So is the truth that you lost
9 consciousness?

10 **A. I did lose consciousness. yes.**

11 **Q.** And is it the truth that this EMS
12 provider made a mistake?

13 **A. I don't know.**

14 **Q.** Is it the truth that you were diagnosed
15 with heat exhaustion?

16 **A. Yes, it is.**

17 **Q.** So is it the truth that Dr. Dean also
18 made a mistake in his diagnosis on Exhibit 167?

19 **A. I can't say that. I don't know who**
20 **filled out this paperwork.**

21 MR. KELLY: May I approach the witness, Judge?

22 THE COURT: Yes.

23 **Q.** BY MR. KELLY: Ma'am, let me hand you
24 what's been admitted as Exhibit 165. You recognize
25 that exhibit; correct?

1 **A. Yes, I do.**
 2 **Q.** That's the Spiritual Warrior release
 3 waiver of liability, assumption of risk indemnity
 4 agreement and disclaimer that you signed on
 5 October 3rd, 2009; correct?
 6 **A. Yes.**
 7 **Q.** Correct?
 8 **A. Yes, I did.**
 9 **Q.** Now, if -- you told us on direct that you
 10 received this document and you read it before
 11 arriving in Sedona on October 3rd, 2009; correct?
 12 **A. Yes.**
 13 **Q.** And, again, on October 2009 you had a
 14 bachelor's degree; correct?
 15 **A. That's irrelevant.**
 16 **Q.** The way this process works is this
 17 attorney decides whether or not she wishes to
 18 object to relevancy. This judge makes that
 19 determination. I ask questions, and I'd ask you to
 20 answer them. Very simple.
 21 On October of 2009, did you have your
 22 bachelor's degree?
 23 **A. Yes, I did.**
 24 **Q.** And you read this agreement?
 25 **A. Yes, I did.**

1 **Q.** And you understand English?
 2 **A. Of course I understand English.**
 3 **Q.** You understand the written word of
 4 English; correct?
 5 **A. Yes.**
 6 **Q.** And you told the jury that you were not
 7 given the opportunity to ask questions about the
 8 content of Exhibit 165; correct?
 9 **A. Yes.**
 10 **Q.** Now I'm going to ask you to take a look
 11 at the final paragraph. And on Exhibit 165 it
 12 reads, I acknowledge that I have been given the
 13 opportunity by the company to ask questions
 14 regarding any aspect of this release waiver,
 15 assumption of risk indemnity agreement and
 16 disclaimer; correct?
 17 **A. That's what it says.**
 18 **Q.** It's your signature on Exhibit 165;
 19 correct?
 20 **A. Yep.**
 21 **Q.** This further to say, by signing below, I
 22 acknowledge that I have carefully and completely
 23 read and fully understand all aspects of this
 24 agreement; correct?
 25 **A. Yes.**

1 **Q.** So now in addition to the EMS provider
 2 and Dr. Dean, has Ms. Brinkley made a mistake when
 3 she assigned Exhibit 165 on October 3rd, 2009?
 4 **A. No. Just because you --**
 5 **Q.** So --
 6 **A. -- had an opportunity to ask questions**
 7 **doesn't mean they're going to answer them.**
 8 **Q.** Is there some aspect of this release that
 9 you do not understand?
 10 **A. No. I understand it.**
 11 **Q.** Because it says that I acknowledge that I
 12 have carefully -- Exhibit 165, Ms. Brinkley, in the
 13 final paragraph says, I acknowledge that I have
 14 carefully and completely read and fully understand
 15 all aspects of this agreement; correct?
 16 **A. Yes.**
 17 **Q.** And on direct you mentioned something
 18 about not releasing negligence. Do you recall
 19 that?
 20 **A. Yes, I do.**
 21 **Q.** Now, take a look at the second paragraph
 22 on Bates stamp 1618, last line. Exhibit 165
 23 states, I assume full responsibility for and risk
 24 of any injuries sustained in connection with the
 25 activities whether caused by the negligence of the

1 releasees or otherwise; correct?
 2 **A. Yes.**
 3 **Q.** Now, you told us that you knew both by
 4 reading this release as well as speaking with other
 5 individuals that there was going to be a sweat
 6 lodge; correct?
 7 **A. Yes, I did.**
 8 **Q.** You knew throughout the course of the
 9 five-day event that you were repeatedly told to
 10 hydrate, hydrate, hydrate; correct?
 11 **A. Yes, I did.**
 12 **Q.** And you did that?
 13 **A. I did.**
 14 **Q.** And you completed the entire sweat lodge
 15 ceremony, each and every round; correct?
 16 **A. Yes.**
 17 **Q.** And what I'd like to do, Ms. Brinkley, is
 18 take a look at Exhibit 414. And tell the jury
 19 again your location.
 20 **A. I was about right in here.**
 21 **Q.** Now, there was a time -- well, where do
 22 you understand -- or where do you believe the
 23 location of Kirby Brown and James Shore to be?
 24 **A. They were back in this area back in here.**
 25 **Q.** And then let me ask you this question:

1 Is that based on your personal recollection or on
 2 information you've learned after October of 2009?
 3 **A. That is based on my personal**
 4 **recollection.**
 5 **Q.** Would you please indicate on Exhibit 414
 6 the location of where you believe Liz Neuman was.
 7 **A. Liz Neuman was right here.**
 8 **Q.** And next to Liz Neuman was Laurie Tucker?
 9 **A. Laura Tucker.**
 10 **Q.** Laura Tucker?
 11 **A. Yes.**
 12 **Q.** And please indicate on 414 --
 13 **A. I believe she was on this side of her.**
 14 **Q.** There was testimony on direct this
 15 morning about hearing a statement from Laura
 16 Tucker; correct?
 17 **A. Yes.**
 18 **Q.** I want you to look at the jury and tell
 19 them, based on your recollection, the exact words
 20 to the best of your ability that you heard from
 21 Ms. Tucker.
 22 **A. I don't remember the exact words. But**
 23 **what I recall is that Liz -- or Laura called out**
 24 **that Liz was having some difficulties. I don't**
 25 **remember her exact words. She said she was**

1 **concerned. And that's --**
 2 **Q.** Give us an approximate time in the course
 3 of the eight rounds.
 4 **A. I can't. I mean, sixth or seventh or**
 5 **eighth round.**
 6 **Q.** Towards the middle or late middle?
 7 **A. I lost track of the rounds. So that is**
 8 **hard for me to do.**
 9 **Q.** Now, you showed us your location. Where
 10 was the location of Mr. Ray?
 11 **A. James Ray?**
 12 **Q.** Yes, ma'am.
 13 **A. He was right here. He was, like, about**
 14 **six or seven people down from me.**
 15 **Q.** And when Laura Tucker indicates something
 16 to the effect she's in trouble or she needs help --
 17 **A. Yes.**
 18 **Q.** -- was there a response from Mr. Ray?
 19 **A. Yes.**
 20 **Q.** And what was the response?
 21 **A. Liz is okay. She's done this before.**
 22 **We'll address it after the round is over.**
 23 **Q.** Now, you're -- I just want to make sure.
 24 You're absolutely sure that that statement about
 25 Liz being in trouble came from Laura Tucker?

1 **A. I am absolutely sure.**
 2 **Q.** And you're absolutely sure that in
 3 response to that statement Mr. Ray said something
 4 to the effect, she's done this before or wait till
 5 the next round?
 6 **A. Yes. I'm absolutely sure.**
 7 **Q.** You're equally sure, then, that those
 8 statements did not come back or were not -- did not
 9 originate from the location of Kirby and James
 10 Shore; correct?
 11 **A. Yes. I'm sure.**
 12 **Q.** I have a couple very brief questions.
 13 First of all, what would you approximate the length
 14 of time to be in regards to the entire sweat lodge
 15 ceremony?
 16 **A. Probably close to three hours.**
 17 **Q.** And during that time, describe to the
 18 jury how you're positioned the majority.
 19 **A. If this was the outside of the sweat**
 20 **lodge, I had my head facing, and I was on my knees.**
 21 **My body was crouched down for a good part of the**
 22 **time.**
 23 **Q.** So -- and you weren't lying flat?
 24 **A. I was part of the time, but for the**
 25 **majority of the time, I think I was on my knees.**

1 **Q.** Okay. And towards the end you were kind
 2 of -- for lack of a better description, kind of
 3 very tightly in a ball?
 4 **A. Towards the end I was laying flat because**
 5 **by then I was just spent.**
 6 **Q.** And you -- I want to ask your age. I'm
 7 going to ask you relative ages. Kirby Brown is
 8 younger than you; correct?
 9 **A. Yes, she is.**
 10 **Q.** And James Shore is stronger than you?
 11 **A. Probably.**
 12 **MR. KELLY:** Thank you, Ms. Brinkley. That's
 13 all the questions.
 14 **THE COURT:** Thank you, Mr. Kelly.
 15 **MR. KELLY:** Judge, I apologize. May I just --
 16 **THE COURT:** Okay.
 17 **MR. KELLY:** I apologize, Judge. I have one
 18 additional area of questions.
 19 **Q.** As a result of the October 8 incident,
 20 you filed a lawsuit against James Ray
 21 International; correct?
 22 **A. No, I did not.**
 23 **Q.** James Ray, the individual?
 24 **A. No, I have not.**
 25 **Q.** Against Angel Valley?

1 **A. No.**
 2 **Q.** Did you file any kind of lawsuit in this
 3 case?
 4 **A. I have been approached about the class**
 5 **action lawsuit, but I withdrew.**
 6 **Q.** So you were never a plaintiff in a
 7 lawsuit against anyone?
 8 **A. No.**
 9 **Q.** Thank you, ma'am.
 10 THE COURT: Thank you, Counsel.
 11 Ms. Polk.
 12 MS. POLK: Thank you, Your Honor.
 13 **REDIRECT EXAMINATION**
 14 **BY MS. POLK:**
 15 **Q.** Ms. Brinkley, you were just asked by
 16 Mr. Kelly whether or not you had filed any lawsuits
 17 against James Ray or James Ray International. Did
 18 you?
 19 **A. No, I didn't.**
 20 **Q.** You were asked whether you filed any
 21 lawsuits against Angel Valley or the Hamiltons.
 22 Did you?
 23 **A. No.**
 24 **Q.** But you were asked about a class action?
 25 **A. Yes.**

1 **Q.** And your testimony is that you withdrew
 2 from it?
 3 **A. I did.**
 4 **Q.** What did that lawsuit involve?
 5 **A. It was recouping money for events we had**
 6 **paid for that never occurred.**
 7 **Q.** Had you prepaid for some events?
 8 **A. Yes. I had prepaid for two other events.**
 9 **Q.** What events were those?
 10 **A. Both of them were Modern Magick, one**
 11 **which would have been April 2010 and the other**
 12 **in 2011.**
 13 **Q.** Did you have any contact with Mr. Ray
 14 after the events that happened on October 8, 2009?
 15 **A. Yes.**
 16 **Q.** Do you know whether Mr. Ray offered any
 17 additional events after that week?
 18 MR. KELLY: Your Honor, objection. Relevance.
 19 THE COURT: Sustained.
 20 **Q.** BY MS. POLK: Ms. Brinkley, you were
 21 asked by Mr. Kelly if Kirby Brown was younger than
 22 you. Was she?
 23 **A. Yes.**
 24 **Q.** And you were asked if Mr. Shore was
 25 stronger than you. Do you know what the physical

1 condition of Kirby Brown was as she entered the
 2 sweat lodge?
 3 **A. No.**
 4 **Q.** Do you know what the physical condition
 5 of James Shore was as he entered the sweat lodge?
 6 **A. No.**
 7 **Q.** Do you know how much sleep Kirby Brown
 8 had during the week?
 9 **A. I don't.**
 10 **Q.** Do you know how much sleep James Shore
 11 had during the week?
 12 **A. I do not.**
 13 **Q.** Do you know how much food, how much to
 14 eat, Kirby Brown had during the week?
 15 MR. KELLY: Judge, objection. Leading
 16 question.
 17 THE COURT: Overruled.
 18 THE WITNESS: No, I don't.
 19 **Q.** BY MS. POLK: Do you know how much to eat
 20 James Shore had had during the week?
 21 **A. No.**
 22 **Q.** Do you know how much either Kirby or
 23 James Shore had hydrated prior to entering the
 24 sweat lodge?
 25 **A. No, I don't.**

1 **Q.** And do you know if either one of them was
 2 working with Mr. Ray in any manner during the week?
 3 **A. I know that I saw Kirby talking to him.**
 4 **I don't really know if they were working one on**
 5 **one.**
 6 **Q.** When was it that you saw Kirby talking to
 7 Mr. Shore -- I mean to Mr. Ray?
 8 MR. KELLY: Objection. Beyond the scope.
 9 THE COURT: Overruled.
 10 You may answer that.
 11 THE WITNESS: I can't exactly say what day it
 12 was because we were often in and out of the meeting
 13 room. And when we took breaks, sometimes people
 14 would go up and talk to him. So I can't say
 15 exactly when. But I know I saw her talking to him
 16 a couple of times.
 17 **Q.** BY MS. POLK: You were asked a question
 18 by Mr. Kelly about your position throughout the
 19 sweat lodge. And in response, you said you were
 20 facing down. When the sweat lodge ceremony was
 21 over, what was the condition of your face?
 22 **A. I was covered in dirt and mud.**
 23 **Q.** Were you able to see when you came out?
 24 **A. Not very well. No. Because I had a lot**
 25 **of dirt on my eyelashes and things.**

1 Q. Do you know where that dirt came from?
 2 A. **Yeah. From having my face down on the**
 3 **ground.**
 4 Q. You were asked some questions about the
 5 medical records. What are the symptoms that you
 6 experienced after being in Mr. Ray's sweat lodge
 7 ceremony?
 8 A. **I had severe nausea and I had what I**
 9 **believe to be hypothermia because of the cold, the**
 10 **freezing cold. Those were, basically, my symptoms.**
 11 Q. Do you recall when it was that you began
 12 feeling nauseous?
 13 A. **As I was laying outside of the sweat**
 14 **lodge, when I was lying in the gravel outside.**
 15 Q. When you were inside the sweat lodge, did
 16 you ever feel nauseous?
 17 A. **I don't know in there. I couldn't tell**
 18 **you.**
 19 Q. When you were asked a question about your
 20 medical records and the issue of vomiting, did you
 21 ever vomit?
 22 A. **No, I didn't.**
 23 Q. I'm going to put up on the overhead
 24 Exhibit 168.
 25 Mr. Kelly asked you a couple questions

1 about this. Let me direct your attention -- first
 2 of all, you were asked about this sentence that
 3 says, denied syncope at any. Do you see that that
 4 sentence carries on down here -- point?
 5 A. **Oh. Right.**
 6 Q. Do you understand "syncope" to be
 7 fainting?
 8 A. **I assumed it had something to do with the**
 9 **state of unconsciousness. I didn't know it was**
 10 **fainting. No.**
 11 Q. Do you recall what questions you were
 12 asked by the paramedic?
 13 A. **No.**
 14 Q. You were asked a question about this box
 15 that says, loss of consciousness, and it's checked
 16 no?
 17 A. **Yes.**
 18 Q. You see this box over here that says
 19 LOCOA?
 20 A. **Uh-huh.**
 21 Q. You understand that to mean loss of
 22 consciousness upon arrival?
 23 A. **No. I didn't know that's what it meant.**
 24 Q. When the paramedic arrived and checked
 25 you out, were you conscious or unconscious?

1 A. **When they arrived, I was conscious.**
 2 Q. Do you see down here it says, patient is
 3 showing signs and symptoms of carbon monoxide or CO
 4 poisoning?
 5 A. **Yes. I see that.**
 6 Q. What other signs and symptoms, if you
 7 recall, did you talk to the paramedic about?
 8 A. **Other than the ones I already mentioned,**
 9 **I don't recall if there was anything else.**
 10 Q. Do you know what the color of your skin
 11 was?
 12 A. **I have no idea.**
 13 Q. Did you ever get a chance to look in the
 14 mirror?
 15 A. **No.**
 16 Q. I'm going to put up on the overhead
 17 Exhibit 167.
 18 Look at the first page. Ms. Brinkley,
 19 this is the exhibit that you said had something
 20 wrong on it?
 21 A. **Yes.**
 22 Q. Can you point out to the jury the part
 23 that you think is wrong or you believe to be wrong.
 24 A. **Right here where it says, vomiting. I**
 25 **did not vomit. The rest of it is fairly accurate.**

1 Q. Down here it says, gastrointestinal
 2 symptoms, nausea, vomiting, no diarrhea.
 3 Is that accurate?
 4 A. **No. I did have diarrhea.**
 5 Q. And did you have vomiting?
 6 A. **No.**
 7 Q. When did the diarrhea begin?
 8 A. **I want to say while I was on the Vision**
 9 **Quest.**
 10 Q. What part of the Vision Quest did the
 11 diarrhea begin on?
 12 A. **I don't really remember.**
 13 Q. And I don't want to ask an embarrassing
 14 question. But the jury has heard that you were
 15 instructed to stay inside the medicine wheel --
 16 A. **Yes, we were.**
 17 Q. -- the whole time including to relieve
 18 yourself?
 19 A. **Uh-huh.**
 20 Q. Did you stay inside the medicine wheel
 21 the whole time?
 22 A. **Yeah, I did.**
 23 Q. Did your diarrhea continue after the
 24 Vision Quest?
 25 A. **Yes. It continued for eight weeks.**

- 1 Q. For eight weeks?
- 2 A. Yes.
- 3 Q. Was your diarrhea any different from
- 4 before you entered the sweat lodge to after
- 5 completing the sweat lodge ceremony?
- 6 A. Yes, it was.
- 7 Q. And how, if you don't mind my asking?
- 8 A. I don't mind. It started to be -- have,
- 9 like, a clear gel-like liquid around it. It was
- 10 very unusual.
- 11 Q. Did you seek medical attention after you
- 12 left Arizona?
- 13 A. I did. I went to my personal doctor.
- 14 Q. And was that issue cleared up?
- 15 A. Yeah. She wanted to do a colonoscopy,
- 16 and it just ended up clearing before we got
- 17 anything done. So I didn't pursue that.
- 18 Q. Ms. Brinkley, going back to your medical
- 19 record from the Verde Valley Medical Center, do you
- 20 see up here at the top it says, Kim Brinkley, age
- 21 51; and for sex it has --
- 22 A. I haven't changed sex since then. Sorry.
- 23 Q. Would this medical record be accurate in
- 24 that regard?
- 25 A. No. Not in that regard.

- 1 Q. Then on the second page of this medical
- 2 record, do you see the paragraph that says, medical
- 3 decision making, differential diagnosis, nausea,
- 4 not abdominal pain?
- 5 A. Yes.
- 6 Q. Is that correct?
- 7 A. No. I did have some abdominal pain with
- 8 the nausea.
- 9 Q. And then down below, it says, course
- 10 resolved, pain status resolved, intervention,
- 11 drinking fluids and complete resolution of
- 12 symptoms. This is under reexamination and
- 13 reevaluation. Were you evaluated on more than
- 14 one -- at more than one time that you were at the
- 15 hospital?
- 16 A. I don't remember anybody but the doctor
- 17 evaluating me at the hospital.
- 18 Q. Did he see you more than one time?
- 19 A. Yes, he did.
- 20 Q. And how many times did he see you?
- 21 A. I think he came in twice. He was there
- 22 initially and before I left.
- 23 Q. When was it the doctor gave you the
- 24 verbal diagnosis?
- 25 A. At the end before I left. Because they

- 1 ran a bunch of tests. And I think he was waiting
- 2 for the test results.
- 3 Q. And after running the tests, he came back
- 4 in and visited you?
- 5 A. Yes.
- 6 Q. And then were you discharged?
- 7 A. Yes.
- 8 Q. Did he give you a diagnosis upon your
- 9 discharge?
- 10 A. He said I was suffering from heat
- 11 exhaustion.
- 12 Q. You were asked a question by Mr. Kelly
- 13 about after the ceremony was over, after you had
- 14 gone to your room and then gone to the dining room.
- 15 And specifically Mr. Kelly had drawn your attention
- 16 to a statement that you made in your first
- 17 interview about hearing comments from other
- 18 participants.
- 19 A. Yes.
- 20 Q. Where were you when you heard comments
- 21 from other participants?
- 22 A. In the dining hall.
- 23 Q. Do you recall who it was that you heard
- 24 comments from?
- 25 A. No. There were a lot of people in there.

- 1 And I don't specifically remember. A lot of
- 2 people. You could just hear a lot of
- 3 conversations.
- 4 Q. Did you hear comments from anybody about
- 5 what they had heard inside the sweat lodge?
- 6 A. No.
- 7 Q. Have you ever discussed with anybody what
- 8 you heard inside the sweat lodge?
- 9 A. Yes, I have.
- 10 Q. And who have you discussed it with?
- 11 A. My spouse and my counselor.
- 12 Q. Did you ever discuss what you heard with
- 13 any of the other participants in the sweat lodge
- 14 ceremony?
- 15 A. I may have right after the fact, but I
- 16 don't really remember.
- 17 Q. And in terms of time, what do you mean by
- 18 "right after the fact"?
- 19 A. I mean the same day that same evening.
- 20 Q. Your testimony, Ms. Brinkley, about
- 21 hearing Kirby's breathing. First of all, how do
- 22 you know who the breathing came from?
- 23 A. I really wasn't sure who the breathing
- 24 came from. I just knew where it was coming from.
- 25 And actually initially I thought it was Sidney.

1 Q. Sidney who?

2 A. **Sidney Spencer.**

3 Q. And why do you think today it was Kirby

4 and not Sidney?

5 A. **I don't really know that it was Kirby**

6 **specifically. I heard the breathing and I just --**

7 **I knew that -- after the fact I knew what the**

8 **diagnosis, the -- how do you call it -- the causes**

9 **of death. Because that was something that came out**

10 **earlier. And then I thought maybe it could have**

11 **been her. But I can't say for sure who it was.**

12 Q. You were asked by Mr. Kelly whether you

13 had told that to the detective that night about

14 what you heard about the breathing.

15 A. **I didn't tell anybody. Nobody really**

16 **asked me specific questions regards to that, and I**

17 **wasn't feeling really well.**

18 Q. And, in fact, Mr. Kelly had you agree

19 that you had never told Ms. Do that when she

20 interviewed you on December 21st of 2010.

21 A. **She didn't ask me that question.**

22 Q. I'm going to put up on the overhead

23 Exhibit 414, which is the diagram of our sweat

24 lodge. Will you show the jury -- do you know where

25 Sidney Spencer was during the ceremony?

1 A. **She was back in this general area here.**

2 **They were -- like, if I was sitting facing the pit,**

3 **they were to my right, and I know that she was near**

4 **Sidney and James.**

5 Q. Do you know when Sidney Spencer came out

6 of the sweat lodge?

7 A. **I don't.**

8 Q. Were you ever aware of anybody being

9 brought out past you during the ceremony at any

10 time?

11 A. **I knew people were going by, but I**

12 **really -- you know -- I wasn't looking at who they**

13 **were. I was keeping my face down.**

14 Q. Were you ever aware of people who were

15 unconscious being brought past you?

16 A. **If they were, I wasn't aware of it. No.**

17 Q. Were you ever aware of James Shore during

18 the ceremony?

19 A. **No.**

20 Q. Mr. Kelly asked you questions about the

21 audio that the jury has heard of the briefing that

22 Mr. Ray gave the participants before you entered

23 the sweat lodge. And you said that the audio did

24 not include everything that was said. Did Mr. Ray

25 make more comments about the upcoming sweat lodge

1 ceremony at a place other than the Crystal Hall?

2 A. **Yes. We had some more -- he reiterated**

3 **some of what he said outside the sweat lodge before**

4 **we entered.**

5 Q. Specifically what did he repeat?

6 A. **How to enter, which direction to go. I**

7 **want to say somebody said, what if I have to go to**

8 **the bathroom? He said, just let it go. Things**

9 **like that.**

10 Q. And at the time did that seem like an

11 issue to you having people urinate in the sweat

12 lodge?

13 A. **Well, it was all kind of unusual, so I**

14 **didn't dwell on it.**

15 Q. Where did that additional conversation

16 take place?

17 A. **Right outside of the sweat lodge. They**

18 **had a fire out there. I'm guessing it's where they**

19 **heated the rocks. And we were around that.**

20 Q. Do you recall any discussion about the

21 rocks themselves at that time?

22 A. **There was some discussion about how hot**

23 **the rocks get and that the gentleman who was**

24 **heating the rocks said that they were hotter than**

25 **they had ever been before.**

1 Q. Mr. Kelly asked you some questions about

2 your choice to go in and your choice to leave and a

3 question that you said you could not agree to,

4 which was at no time did Mr. Ray prevent anyone

5 from leaving.

6 Will you explain your response to the

7 jury?

8 A. **Yes. Regarding whether he prevented**

9 **anyone from leaving?**

10 Q. Yes.

11 A. **It was kind of one of those unspoken**

12 **rules when you when to a James Ray event. He**

13 **pushed people to the limit. And you kind of -- a**

14 **lot of people didn't want to disappoint him. So a**

15 **lot of people wouldn't leave because they wouldn't**

16 **want to have disappointed him. And the other thing**

17 **was, and I heard, well, several times when people**

18 **went to leave the sweat lodge --**

19 MR. KELLY: Your Honor, object to the hearsay

20 basis of the response.

21 THE COURT: It appears that's where it's

22 headed, Ms. Polk.

23 Q. BY MS. POLK: I'll ask you a question.

24 During the ceremony were you aware when people were

25 attempting to leave?

1 A. Yes.

2 Q. And did you hear Mr. Ray say something to
3 them?

4 A. Yes.

5 Q. And tell the jury what you heard Mr. Ray
6 say.

7 A. He would say, you're more than that.

8 Q. Was that a phrase you had heard before
9 entering the sweat lodge?

10 A. I've heard it for two years prior to
11 that.

12 Q. And what does that phrase mean?

13 A. It means that you're more than your body.
14 You're more than your physical body, that you have
15 to tough it out sometimes.

16 Q. Mr. Kelly asked you specifically a
17 question about your choice in the sweat lodge and
18 whether or not you were exercising a free choice,
19 and you said you did not believe you were. Will
20 you explain that answer to the jury.

21 MR. KELLY: Your Honor, I'm going to object.
22 I believe the response is going to be based on
23 hearsay.

24 May we approach?

25 THE COURT: Yes, you may.

1 (Sidebar conference.)

2 MR. KELLY: Judge, this is my concern based on
3 the disclosure provided by the State of Arizona:
4 When I asked that question, it was in response to
5 her statements made to the detective on October 8,
6 2009, when she said, yeah. Everybody had free
7 choice.

8 In June of 2010, between October and
9 June, she had done research and had contacted
10 people and now has a different opinion as to
11 choice. And my best characterization could be that
12 she believes that since James Ray, in her opinion,
13 was not qualified to conduct many of the activities
14 that that affected her choice. In other words,
15 stated differently, had she known that he was not a
16 certified shaman or a certified sweat lodge
17 operator, or certified in Humna, she would not have
18 paid the money.

19 And so my objection is, first of all,
20 relevance. It's a manslaughter charge. And,
21 secondly, I believe her opinion is based strictly
22 on hearsay information. It goes beyond the scope
23 of cross-examination.

24 THE COURT: Ms. Polk.

25 MS. POLK: Your Honor, Mr. Kelly has just

1 admitted that he knew all of that when he asked the
2 questions of her. He's opened the door,
3 specifically asked the question of her about
4 choice, knowing that in subsequent interviews --
5 it's the June, I believe, as well as when Ms. Do
6 interviewed her where she discusses that she does
7 not believe it's a free choice when you're trusting
8 somebody who has misrepresented their credentials
9 to you.

10 All of that was known to Mr. Kelly when
11 he asked that question of her. And he's opened the
12 door to it.

13 MR. KELLY: Judge, I don't believe that's
14 quite correct. I knew what I had described in the
15 June interview with Detective Diskin, and she went
16 on and on about what she had learned and how angry
17 and how upset she was. She lost her job. She was
18 about to lose her house. She was very angry with
19 James Ray.

20 She never connected that to the free
21 choice as indicated in the October 8. So I'm
22 making an assumption that that's where her answer
23 is going.

24 THE COURT: Ms. Polk, the question has to be
25 confined to at the time did she feel she had free

1 choice. Questions about what that's based on is
2 fine, why she felt she had the free choice.

3 But to go back in retrospect and say, now
4 that I look at it, I didn't really have it, it has
5 to be putting herself back in time and where she
6 was at then, how she felt at that time.

7 MS. POLK: Judge, if she at the time
8 believed -- at the time Mr. Ray's qualifications
9 had been misrepresented to her, she has since
10 learned that is the case, and that's the basis,
11 then, for her opinion that she didn't have a free
12 choice, how can she tell the jury that she had --
13 she had a free choice then without explaining to
14 the jury what her belief was?

15 THE COURT: That's what I'm saying. If she
16 wants to say what went into her belief that it was
17 a free choice, that's legitimate. But to go back
18 and make a reconstruction as to what she should
19 have been told, I've just not heard that.

20 MR. KELLY: Judge, in terms of relevancy, what
21 was represented, there was nothing misrepresented
22 from Mr. Ray. We've heard Exhibit 141 and his
23 actual words. And what she believes in terms of
24 his qualifications and misrepresentations are hotly
25 contested. It's a whole other issue.

1 THE COURT: I know. And that is -- it's
2 absolute hearsay. So the question that had to
3 do -- that Mr. Kelly raised had to do with she felt
4 she had a free choice at that time. She told the
5 officer she did have a free choice.
6 What that was based on and why at that
7 time, that's something she can testify to. But she
8 can't go back -- you know -- now in retrospect and
9 say well, now that I've learned that he didn't know
10 this and didn't know that. That's talking about
11 her assessment of a choice months and months later.
12 So it would just absolutely call for hearsay. It's
13 got to be.

14 MS. POLK: Your Honor, is it okay if I just
15 ask her, then, at the time she made that statement,
16 did she trust that Mr. Ray would keep her safe?

17 THE COURT: If we can end with the leading
18 questions, again, Ms. Polk. Why she felt she had a
19 free choice is a legitimate question. She said she
20 did have a free choice at that time. What goes
21 into that is what her answer would be.

22 Mr. Kelly.

23 MR. KELLY: Judge, I would renew my objection
24 in regards to that question. Did you believe you
25 were safe? I believe that's highly prejudicial and

1 irrelevant to a manslaughter charge. But that has
2 been overruled by this court in the past.

3 So now that I've stated that objection,
4 yes, I believe using that leading question will be
5 appropriate.

6 THE COURT: There has been some testimony to
7 that. I'm just saying the questioning has to be
8 related to -- Mr. Kelly, you asked about did she
9 feel she had a free choice? And she said she did
10 at the time but she wanted to elaborate.

11 Ms. Polk is now legitimately following
12 up. But it can't be this reconstruction from
13 months and months later based on hearsay. It has
14 to be why she felt she had a free choice at that
15 time, what went into that.

16 That's a legitimate question, Ms. Polk.

17 MR. KELLY: So I understand, the question is
18 going to be what Ms. Polk just indicated?

19 THE COURT: I think Ms. Polk wanted to lead
20 into a particular area rather than saying why did
21 you feel -- you taking yourself back to that time,
22 why did you feel you it was a free choice then?
23 Something like that.

24 Thank you.

25

1 (End of sidebar conference.)

2 THE COURT: Ms. Polk.

3 MS. POLK: Thank you.

4 Q. Ms. Brinkley, you were asked some
5 questions by Mr. Kelly about the statements you
6 heard inside the sweat lodge that you believed
7 concerned Liz Neuman?

8 A. Yes.

9 Q. After you heard -- and, first of all, you
10 heard Mr. Ray respond?

11 A. Yes.

12 Q. And are you certain it was Mr. Ray who
13 responded?

14 A. Yes.

15 Q. And what did you hear him say?

16 A. **He said, Liz is okay. She's done this
17 before. We'll address it after the round is over.**

18 Q. After the round's over?

19 A. Yes.

20 Q. And after the round is over, did Mr. Ray
21 address anything with Liz Neuman?

22 A. **Not to my knowledge.**

23 Q. Not to your knowledge?

24 A. **Yeah.**

25 Q. Thank you.

1 Thank you, Your Honor.

2 THE COURT: Thank you, Ms. Polk.

3 Ladies and gentlemen, any questions for
4 this witness?

5 Then, Counsel, excused temporarily but
6 subject to possible recall?

7 MS. POLK: Yes.

8 MR. KELLY: Yes.

9 THE COURT: Ms. Brinkley, you will be excused.
10 There is a possibility you will be recalled. So
11 you need to keep following that rule of exclusion I
12 discussed with you -- not talking with any other
13 witness about the case or your testimony until the
14 trial is over. Good idea not to talk to anyone
15 about the case until the trial is over.

16 However, you can talk to the attorneys,
17 as I have explained, as long as other witnesses are
18 not present.

19 You're excused temporarily at this time.

20 I want to clear up this technical problem
21 I have going at the bench. So I want to take a
22 briefer recess right now and another one a little
23 bit later.

24 We will go ahead and recess for about 10
25 minutes. Please remember the admonition. We'll be

1 in recess. I'll be at the bench for a while.
 2 Thank you.
 3 (Recess.)
 4 THE COURT: The record will show the presence
 5 of defendant, Mr. Ray, attorneys, the jury.
 6 Ms. Polk, you may call your next witness.
 7 MS. POLK: State calls Dawn Gordon, please.
 8 THE COURT: Ma'am, if you'd please step to the
 9 front of the courtroom where the bailiff is
 10 directing you.
 11 And raise your right hand and be sworn by
 12 the clerk.
 13 DAWN GORDON,
 14 having been first duly sworn upon her oath to tell
 15 the truth, the whole truth, and nothing but the
 16 truth, testified as follows:
 17 THE COURT: Please be seated over here to my
 18 right. The bailiff will assist you.
 19 Ma'am, please begin by stating and
 20 spelling your full name.
 21 THE WITNESS: Dawn Michelle Gordon, D-a-w-n,
 22 M-i-c-h-e-l-l-e, G-o-r-d-o-n.
 23 MR. LI: I don't know if it matters, but the
 24 clock has stopped. The clock there isn't running.
 25 THE COURT: I'm sorry, Mr. Li?

1 MR. LI: The clock that's always running over
 2 here is not running. And I don't know if that
 3 affects the record or not. I just noticed.
 4 THE COURT: The other system is working.
 5 Thank you, Mr. Li.
 6 Ms. Polk.
 7 MS. POLK: Thank you.
 8 DIRECT EXAMINATION
 9 BY MS. POLK:
 10 Q. Good afternoon, Ms. Gordon. Could you
 11 start by pulling the microphone a little bit closer
 12 so we can hear you a little bit better.
 13 Will you tell the jury what state you
 14 live in.
 15 A. Nevada.
 16 Q. If you can make an effort -- you're very
 17 soft-spoken. Make sure we can all hear you.
 18 What city do you live in?
 19 A. Las Vegas.
 20 Q. What is your occupation?
 21 A. Financial adviser.
 22 Q. How long have you been so employed?
 23 A. 25 years.
 24 Q. Do you have a college degree?
 25 A. No.

1 Q. And what education do you have? What's
 2 your educational background?
 3 A. Ongoing financial continuing education,
 4 personal growth, leadership courses, due diligence
 5 meetings.
 6 Q. Is that ongoing today, your education?
 7 A. Correct.
 8 Q. Do you have any certifications?
 9 A. In relationship to?
 10 Q. To financial advising.
 11 A. Yes.
 12 Q. What are those?
 13 A. I'm licensed with my Series 7, 653
 14 Principal's License 24.
 15 Q. Did you come to learn of a man named
 16 James Ray?
 17 A. Yes.
 18 Q. When did you learn of Mr. Ray?
 19 A. During watching the movie The Secret in
 20 maybe 2005.
 21 Q. How did you learn of the movie The
 22 Secret?
 23 A. I pursue personal growth all the time.
 24 It came into my space, and that's how I learned.
 25 Q. And in addition to pursuing personal

1 growth through The Secret and some of the events
 2 you attended with Mr. Ray, do you do that with
 3 other avenues as well?
 4 A. Yes.
 5 Q. And for the record, do you see Mr. Ray
 6 here in the courtroom?
 7 A. I do.
 8 Q. Is he seated behind me here, the middle
 9 of the three gentlemen?
 10 A. Yes.
 11 Q. After seeing The Secret, did you then
 12 participate in an event put on by Mr. Ray?
 13 A. Yes.
 14 Q. What was the first event?
 15 A. It may have been a program called
 16 "Harmonic Wealth."
 17 Q. Do you recall if that was a free event or
 18 a paid event?
 19 A. I believe I paid for that one.
 20 Q. Will you tell the jury, Ms. Gordon, how
 21 many events total put on by Mr. Ray you have
 22 attended.
 23 A. Seven paid and one voluntary.
 24 Q. Over what period of time?
 25 A. Three years.

1 Q. And will you tell the jury the names of
2 the events that you've attended?

3 A. **Harmonic Wealth, Quantum Leap, Creating**
4 **Absolute Wealth, Practical Mysticism, Sacred Energy**
5 **Exchange, The Dream and the Dreamer, Spiritual**
6 **Warrior, and one introduction meeting that I**
7 **brought friends to.**

8 Q. You said you had attended a voluntary
9 event. What do you mean by that?

10 A. **An event that I did not pay.**

11 Q. What event was that?

12 A. **I don't know the name. I just know I**
13 **attended.**

14 Q. How was it that you got to attend an
15 event without paying for it?

16 A. **I think through an email.**

17 Q. From Mr. Ray?

18 A. **Yes.**

19 Q. When was that?

20 A. **They're ongoing. So it could have been**
21 **at any point during the three years or four years**
22 **of being aware of James Ray.**

23 Q. How much total did you pay, Ms. Gordon,
24 for all of the events that you paid for put on by
25 Mr. Ray?

1 A. **I don't have an exact number.**

2 Q. Can you give the jury a rough estimate.

3 A. **Tuition maybe around 30,000.**

4 Q. And are there additional expenses in
5 addition to the tuition?

6 A. **Yes. Personally. My own expenses. Not**
7 **what I'm being asked to pay outside of tuition to**
8 **James Ray.**

9 Q. What was your reason or reasons for
10 attending the various James Ray events?

11 A. **Personal growth and development, being**
12 **the best person I can be.**

13 Q. Did you attend Spiritual Warrior 2009?

14 A. **Yes.**

15 Q. Do you recall how much you paid for that?

16 A. **Maybe 9,995.**

17 Q. Do you recall if you also paid additional
18 amounts to another entity for your room and board?

19 A. **I believe I did.**

20 Q. In October of 2009 -- first of all, how
21 did you get from Las Vegas to the area of Sedona,
22 Arizona?

23 A. **By car. Well, plane and then car.**

24 Q. The jury has heard about a number of the
25 events, so I'm not going to have you explain every

1 event that occurred that week. We've heard about a
2 head-shaving event. Did you cut your hair or shave
3 your head?

4 A. **I did not.**

5 Q. Was that a decision that you made at the
6 time?

7 A. **Yes.**

8 Q. And what was your reason for not cutting
9 your hair?

10 A. **When I was paying attention to my**
11 **thoughts and feelings, I recognized for myself that**
12 **I was under the opposite of what was being true for**
13 **me, which was I was feeling peer pressure that if I**
14 **didn't shave my head, what would my peers think of**
15 **me. And in that moment I felt it was unauthentic**
16 **for me to shave my head, that I would be doing it**
17 **under a peer pressure versus a shedding of certain**
18 **identity. So it felt more appropriate to not.**

19 Q. Who did you feel that peer pressure from?

20 A. **Myself and my thoughts about what I was**
21 **thinking other people may think about me, if I did**
22 **not and they had.**

23 Q. Do you recall today how many participants
24 at Spiritual Warrior 2009 shaved their heads or cut
25 their hair?

1 A. **Do you want numbers or percentages?**

2 Q. Percentages.

3 A. **I would say 95 percent.**

4 Q. You were one of the few that did not?

5 A. **I believe so.**

6 Q. Do you recall the names of anybody else
7 who did not?

8 A. **No.**

9 Q. Did you participate in the Samurai Game?

10 A. **I did.**

11 Q. What role did you have?

12 A. **A participant.**

13 Q. Do you recall who your team leader was?

14 A. **No.**

15 Q. Do you -- did you die or were you
16 pronounced dead at any point during the game?

17 A. **Yes.**

18 Q. At what point?

19 A. **When I lost a dual, if you will.**

20 Q. What was the exercise you were doing that
21 you lost? What was the dual?

22 A. **Singing a note as long as possible and to**
23 **outdo my opponent.**

24 Q. Do you recall who your opponent was?

25 A. **I do not.**

- 1 Q. And do you recall what the total duration
2 of the game was in terms of hours?
3 A. **More than two.**
4 Q. Do you recall at what point you lost the
5 dual?
6 A. **I don't understand what you're asking.**
7 Q. In terms of time, how early on or how
8 late was it that you participated in the exercise
9 and lost?
10 A. **Near the end.**
11 Q. And when you lost, what did you do?
12 A. **Lie down.**
13 Q. Do you recall if that was before or after
14 dinner?
15 A. **It was after dinner.**
16 Q. Do you recall how long you lay there for?
17 A. **It felt like 30 to 45 minutes.**
18 Q. When was it that you were allowed to get
19 up?
20 A. **When the game ended.**
21 Q. How did you know that you could get up?
22 A. **It was announced.**
23 Q. Do you recall who made the announcement?
24 A. **No.**
25 Q. And, Ms. Gordon, what activity occurred

- 1 after the end of the Samurai Game?
2 A. **Gathering belongings and then a small**
3 **hike.**
4 Q. Was that for your Vision Quest?
5 A. **Yes.**
6 Q. Did you participate in the Vision Quest?
7 A. **I did.**
8 Q. During your Vision Quest did you have
9 anything to eat?
10 A. **No.**
11 Q. Did you have anything to drink during
12 your Vision Quest?
13 A. **No.**
14 Q. During your Vision Quest did you stay
15 inside your medicine wheel?
16 A. **I did.**
17 Q. For the whole time?
18 A. **Correct.**
19 Q. During the week were you advised to
20 hydrate?
21 A. **Yes.**
22 Q. And do you recall who it was that advised
23 you to hydrate?
24 A. **Everyone from James Ray to the volunteers**
25 **to the staff, including the instructions that I was**

- 1 **given in writing.**
2 Q. You received some written instructions
3 about hydrating?
4 A. **Multiple times.**
5 Q. Did you hydrate?
6 A. **Yes.**
7 Q. Did you know ahead of time, Ms. Gordon,
8 that a sweat lodge was part of the activity of the
9 week?
10 A. **I did not know.**
11 Q. When did you find out?
12 A. **I want to say maybe around 2:00 o'clock**
13 **in the afternoon on the last day of the event.**
14 Q. On the day of the sweat lodge?
15 A. **Yes.**
16 Q. Do you recall where you were when you
17 learned there was going to be a sweat lodge?
18 A. **I was in a classroom setting.**
19 Q. Who told you there would be a sweat
20 lodge?
21 A. **James Ray.**
22 Q. Was everybody together?
23 A. **As far as I know.**
24 Q. Can you tell the jury what Mr. Ray said
25 about the sweat lodge at that time.

- 1 A. **I would like you to be more specific. I**
2 **need clarity on what you're asking.**
3 Q. When you were all gathered in the
4 classroom, did Mr. Ray talk to you about the sweat
5 lodge that was upcoming?
6 A. **Yes.**
7 Q. Did he explain to you what would happen?
8 A. **Yes.**
9 Q. What do you recall him saying?
10 A. **That there would be a series of rounds**
11 **where there would be -- it would be very hot. I**
12 **recall a comparison to Native American sweat**
13 **lodges. I recall him saying some strategies to**
14 **participate, to stay close to the ground. It's**
15 **cooler. That's what I remember.**
16 Q. What do you remember about the comparison
17 to a Native American sweat lodge?
18 A. **That it's hotter.**
19 Q. What were the strategies that Mr. Ray
20 talked to you about?
21 A. **To lay down, to lay close to the ground,**
22 **because it's cooler.**
23 Q. How did what Mr. Ray said about the sweat
24 lodge -- how did you feel at that point after
25 hearing about the sweat lodge coming up?

1 **A. How did I feel about what he said or how**
 2 **did I feel about --**
 3 **Q. What you were about to do?**
 4 **A. I was anxious and curious. I was anxious**
 5 **and curious.**
 6 **Q. Did you do anything to prepare yourself**
 7 **for the sweat lodge?**
 8 **A. Physically?**
 9 **Q. Yes. Physically.**
 10 **A. Got into a swimsuit. Took my contacts**
 11 **off.**
 12 **Q. And then mentally did you do anything?**
 13 **A. I did.**
 14 **Q. What did you do?**
 15 **A. Paid attention to my thoughts, said**
 16 **prayers, if you will. That's what I did.**
 17 **Q. Did Mr. Ray explain to you what the**
 18 **purpose of doing the sweat lodge was?**
 19 **A. Yes.**
 20 **Q. And what did he say?**
 21 **A. I can't recall his exact words. I know**
 22 **what I took away from what he said.**
 23 **Q. Can you tell the jury what you**
 24 **understood.**
 25 **A. I understood that it was an opportunity**

1 **to shed old ways of being. And the writing and**
 2 **journaling I had done throughout the week, that it**
 3 **was an opportunity to let those go and to come out**
 4 **of the sweat lodge reborn, if you will, and to shed**
 5 **those old belief systems and to give myself an**
 6 **opportunity to be a stronger person.**
 7 **Q. Did Mr. Ray advise you of any safety**
 8 **precautions while inside the sweat lodge?**
 9 **A. Not to get up when it was dark, to stay**
 10 **in your spot. And I can't remember anything else.**
 11 **Q. Do you recall whether Mr. Ray advised you**
 12 **on your health, your condition inside the sweat**
 13 **lodge?**
 14 **A. I don't recall that.**
 15 **Q. Ms. Gordon, prior to entering the sweat**
 16 **lodge, did you know that extreme heat can be**
 17 **dangerous?**
 18 **A. No.**
 19 **Q. Have you ever been in a sauna before?**
 20 **A. I have.**
 21 **Q. And having done the sweat lodge, are you**
 22 **able to compare that experience to a sauna?**
 23 **A. Yes.**
 24 **Q. And how did it compare?**
 25 **A. In what way?**

1 **Q. In terms of the temperature.**
 2 **A. They're both equally as hot.**
 3 **Q. Was one hotter than the other?**
 4 **MR. LI: Objection, Your Honor. Asked and**
 5 **answered.**
 6 **THE COURT: Overruled.**
 7 **You may answer that, if you can.**
 8 **THE WITNESS: I'm thinking. I think being in**
 9 **there, it was hotter. It felt hotter to me after a**
 10 **certain point.**
 11 **Q. BY MS. POLK: Do you recall being**
 12 **interviewed by a detective on the evening of**
 13 **October 8 of 2009?**
 14 **A. Yes.**
 15 **Q. Do you recall being asked, then, how the**
 16 **heat in a sauna compared to the heat in that sweat**
 17 **lodge?**
 18 **A. I do.**
 19 **Q. Are you able to recall today what your**
 20 **answer was?**
 21 **A. Something like 10 times hotter.**
 22 **Q. Do you recall as you lined up to go --**
 23 **actually, before you lined up to go in the sweat**
 24 **lodge, do you recall whether you gathered outside**
 25 **with Mr. Ray and the other participants?**

1 **A. I do remember that.**
 2 **Q. Do you recall where you gathered?**
 3 **A. Yes.**
 4 **Q. Where was that?**
 5 **A. Outside of the front of the sweat lodge.**
 6 **Q. Do you recall if there was any discussion**
 7 **at that point from Mr. Ray about what to expect**
 8 **inside the sweat lodge?**
 9 **A. There was some conversation going on, but**
 10 **I can't recall. I think I was more into my own**
 11 **internal process at that point.**
 12 **Q. And as you lined up to go inside the**
 13 **sweat lodge, do you remember where you were in the**
 14 **line to get inside?**
 15 **A. I don't understand. I was in line. Yes.**
 16 **Q. Let me show you exhibits 144 and 143 and**
 17 **ask if you see yourself in either of those**
 18 **photographs.**
 19 **A. I don't.**
 20 **Q. And looking at these photographs, does**
 21 **that -- in terms of the line-up, do you recall if**
 22 **you were at the beginning, the middle or the end?**
 23 **A. Closer to the beginning.**
 24 **Q. I'm going to put up on the overhead**
 25 **Exhibit 414, which is a simple diagram of the sweat**

- 1 lodge with this being the entrance.
 2 Can you show the jury how you entered and
 3 where you ended up when you stopped.
 4 **A. Touch this?**
 5 **Q.** If you use your finger and actually touch
 6 it, it will draw right down it. And do you recall,
 7 were there people in front of you?
 8 **A. Yes.**
 9 **Q.** In other words, were there two rows
 10 inside the sweat lodge?
 11 **A. Yes.**
 12 **Q.** Which row were you in?
 13 **A. The back row.**
 14 **Q.** I'm going to put up on the overhead
 15 Exhibit 528.
 16 I understand you can't really tell what
 17 part of the sweat lodge this is. But when you say
 18 "the back row," can you see that picture?
 19 **A. I can see it.**
 20 **Q.** At any time, if you want, I can bring the
 21 photograph to you. How close to the back wall or
 22 the blankets there were you?
 23 **A. Up against it.**
 24 **Q.** Touching it?
 25 **A. Yes.**

- 1 **Q.** I'm jumping ahead a little bit. But I'm
 2 going to put up on the overhead Exhibit 542.
 3 Are you able to see that photograph?
 4 **A. Yes.**
 5 **Q.** Are you able to see that the ground
 6 appears to be damp in that area?
 7 **A. Yes.**
 8 **Q.** Were you ever able at any time during the
 9 ceremony or after to make an observation about
 10 whether the ground around you had gotten wet?
 11 **A. It was wet underneath me from my own**
 12 **sweat.**
 13 **Q.** When you began, was it wet? When you
 14 started the ceremony, was it wet?
 15 **A. I don't think so.**
 16 **Q.** At what point were you aware that the
 17 ground around you was wet?
 18 **A. Maybe the fourth round.**
 19 **Q.** Did you sweat inside the sweat lodge?
 20 **A. Yes.**
 21 **Q.** And do you recall today when it was that
 22 you started sweating?
 23 **A. Near the end of the first round.**
 24 **Q.** Going back to our comparison with a
 25 sauna, how many times have you done a sauna?

- 1 **A. Over my lifetime probably hundreds.**
 2 **Q.** You do saunas a lot?
 3 **A. Yes.**
 4 **Q.** Comparing how you were sweating inside
 5 the sweat lodge to how you sweat inside a sauna,
 6 when you typically do a sauna, can you make that
 7 comparison for us.
 8 **A. It was similar.**
 9 **Q.** Do you sweat a lot in the sauna when you
 10 do the saunas?
 11 **A. Yes.**
 12 **Q.** I'm going to put back up on the overhead
 13 Exhibit 414. And if you could go ahead and make
 14 the mark again where you ended up.
 15 For that first round, Ms. Gordon, will
 16 you tell the jury who was to your left? And if
 17 you're facing the pit, that would be the left?
 18 **A. The first round it was -- you want -- it**
 19 **was Rich and Sylvia.**
 20 **Q.** Could you make marks on here for Rich and
 21 Sylvia.
 22 **A. Yes.**
 23 **Q.** And were they in the back row with you?
 24 **A. Yes.**
 25 **Q.** Do you know who was to the left of

- 1 Sylvia?
 2 **A. Not initially.**
 3 **Q.** Are you aware of anybody else who was to
 4 your left?
 5 **A. Yes. There were people to my left. I**
 6 **just don't know who at that moment.**
 7 **Q.** Okay. At the beginning who was in front
 8 of you?
 9 **A. Sean and James Shore.**
 10 **Q.** Will you make marks on this map for Sean
 11 and James Shore.
 12 **A. It would be --**
 13 **Q.** Which one of those was James Shore?
 14 **A. This one here. He was more to my left,**
 15 **and Sean was more directly in front of me.**
 16 **Q.** Sometimes with this monitor where you put
 17 your finger the mark doesn't show up. It's a
 18 little off.
 19 **A. I see that.**
 20 **Q.** Who was to your right initially inside
 21 the sweat lodge?
 22 **A. Initially when I first went in was Tess.**
 23 **Q.** Did you go in specifically with Tess?
 24 **A. I did.**
 25 **Q.** Will you tell the jury about that.

1 **A. Well, people on either side of me -- we**
 2 **chose to go in together. And Tess and I chose to**
 3 **go in. She was a little nervous. We held hands**
 4 **going in until we had to pooch down to get to our**
 5 **spot.**

6 **Q. Did Tess start out to your right?**

7 **A. She did.**

8 **Q. Who else was to your right?**

9 **A. Then a volunteer, Mark, came and sat**
 10 **between us.**

11 **Q. Do you recall Mark's last name?**

12 **A. Rock.**

13 **Q. Do you know who, then, was to the right**
 14 **of that?**

15 **A. Tess.**

16 **Q. Okay. Do you know who was to the right**
 17 **of Tess?**

18 **A. I do not.**

19 **Q. After the first round at some point did**
 20 **this arrangement of participants change?**

21 **A. Yes.**

22 **Q. And when? Actually, let me back you up.**
 23 **You talked about Rich and Sylvia?**

24 **A. Yes.**

25 **Q. Before the ceremony began, did you have a**

1 conversation with Rich and Sylvia?

2 **A. About the ceremony?**

3 **Q. Yes. About what was about to happen?**

4 **A. Yes.**

5 **Q. And specifically what do you recall about**
 6 **that conversation?**

7 **A. Sylvia explaining that she felt**
 8 **claustrophobic and that she was concerned about**
 9 **being claustrophobic or being in a closed scenario.**

10 **Q. Did you have any conversations with**
 11 **either Sean or James Shore before the ceremony**
 12 **began?**

13 **A. No.**

14 **Q. And then once it began, during the first**
 15 **round did you have any interaction with either one**
 16 **of them?**

17 **A. After the first round I did with Sean**
 18 **because he wanted to lean up against my knees as a**
 19 **back rest. And I couldn't hold him.**

20 **Q. What was your position when Sean wanted**
 21 **to lean against your knees?**

22 **A. I was sitting up with my knees up against**
 23 **me.**

24 **Q. And how much space did you have around**
 25 **you at the beginning?**

1 **A. On either side of me I was touching**
 2 **people.**

3 **Q. And how about to the front of you?**

4 **A. There was enough space to put my legs**
 5 **completely out until the second row came and Sean**
 6 **was sitting in front of me.**

7 **Q. And then did Sean say something to you**
 8 **about leaning up against you?**

9 **A. No.**

10 **Q. How were you aware that he wanted to use**
 11 **your legs as a back rest?**

12 **A. Because he took action and leaned up**
 13 **against me.**

14 **Q. At some point did people around you**
 15 **leave?**

16 **A. Yes.**

17 **Q. When did that happen?**

18 **A. I know Sylvia left right after the first**
 19 **round. I think she was the first one out.**

20 **Q. Out of all the participants? And how**
 21 **about Rich?**

22 **A. I believe Rich left around the fourth --**
 23 **the third or fourth round.**

24 **Q. At some point did the arrangement of**
 25 **people around you change?**

1 **A. Yes.**

2 **Q. And I'm going to clear it, put yourself**
 3 **back up there.**

4 Did your position stay the same, by the
 5 way, the whole time?

6 **A. Yes.**

7 **Q. Put yourself back up there, if you would.**

8 And around what time did the arrangement
 9 of people change?

10 **A. Well, right away after the first round,**
 11 **Sylvia left. So then there was a little more room.**
 12 **And then maybe the third or fourth round, Rich left**
 13 **and Shore sat in his spot. So he now is on my**
 14 **left.**

15 **Q. Are you talking about James Shore?**

16 **A. Yes.**

17 **Q. Will you put a mark, then, for James**
 18 **Shore.**

19 And then do you know who was to the left
 20 of James Shore at that point?

21 **A. Not at that point I didn't.**

22 **Q. At some point did you become aware of**
 23 **Kirby Brown?**

24 **A. Yes.**

25 **Q. And her position in the sweat lodge?**

- 1 **A. Yes.**
 2 **Q.** When was it that you became aware of
 3 Kirby specifically and her position?
 4 **A. After Sidney had been removed.**
 5 **Q.** Do you know what round that was?
 6 **A. I think the sixth.**
 7 **Q.** To the left of James Shore, after Rich
 8 left, who was to the left of James Shore?
 9 **A. I believe Sidney.**
 10 **Q.** Could you draw her on there.
 11 And do you know who was to the left of
 12 Sidney?
 13 **A. Kirby.**
 14 **Q.** Will you draw her on there. To your
 15 right then, Ms. Gordon, who was to your right?
 16 **A. Mark Rock.**
 17 **Q.** Did that ever change?
 18 **A. No.**
 19 **Q.** You and Mark were always side by side?
 20 **A. Yes.**
 21 **Q.** Who was to Mark's right?
 22 **A. Sean.**
 23 **Q.** Can you put Mark and Sean on there.
 24 What about Tess? So Tess was to the
 25 right of Sean?

- 1 **A. Yes.**
 2 **Q.** You described for the jury your position
 3 as sitting up. Did you change that position?
 4 **A. Yes.**
 5 **Q.** Do you recall when?
 6 **A. Right after the second round began.**
 7 **Q.** How did you change your position?
 8 **A. I laid down and put my legs straight.**
 9 **Q.** When you laid down, were you face up or
 10 face down?
 11 **A. Face up.**
 12 **Q.** Did that ever change?
 13 **A. No.**
 14 **Q.** Did you stay lying down, face down, for
 15 the rest of the ceremony?
 16 **A. Yes.**
 17 **Q.** I'm going to put up on the overhead
 18 Exhibit 520. And I can bring this to you if you
 19 can't see it very well up here.
 20 **MR. LI:** For the record, did the witness say
 21 face up or face down?
 22 **THE COURT:** That was unclear.
 23 **THE WITNESS:** I laid face up the entire time.
 24 **Q.** BY MS. POLK: You were face up the entire
 25 time going from sitting to lying down face up?

- 1 **A. Yes.**
 2 **Q.** Can you see this exhibit, or would you
 3 like me to bring it to you?
 4 **A. I can see it.**
 5 **Q.** Do you recognize the pit with the hot
 6 rocks in it -- or rocks in it?
 7 **A. Yes.**
 8 **Q.** Will you tell the jury how close to the
 9 pit you were once you were lying down.
 10 **A. I think from the entrance to my feet,**
 11 **there might have been two and a half feet.**
 12 **Q.** From the entrance?
 13 **A. From the opening of the pit to the -- to**
 14 **my feet maybe two and a half feet.**
 15 **Q.** And with your head up against the side
 16 wall?
 17 **A. Yes.**
 18 **Q.** I'm going to approach and just show you
 19 Exhibit 531. Again, these photographs are a little
 20 bit hard to see. Looking at that photograph, are
 21 you able to -- if I put it on the overhead, would
 22 you be able to sketch out your position with
 23 respect to the pit?
 24 **A. I'm not able to tell where this picture**
 25 **was taken and where the opening -- I would only be**

- 1 **able to do it if the opening was shown here.**
 2 **Q.** Okay. And if we assume that the opening
 3 is opposite this area of light, would you be able
 4 to do that?
 5 **A. Yes.**
 6 **Q.** Let me do that. I'm going to put up on
 7 the overhead Exhibit 531. And understanding that
 8 this is not necessarily exactly where you were, but
 9 if we were to assume that the opening to the sweat
 10 lodge is kind of the opposite direction where you
 11 see light coming from, does that make sense?
 12 **A. So you're saying opposite of this large**
 13 **light directly across is where the opening is?**
 14 **Q.** Yes.
 15 **A. Okay. Your question?**
 16 **Q.** What area, then, would you be in inside
 17 the sweat lodge if you can do that?
 18 **A. I would be where the opening is then.**
 19 **Q.** Are you able to see that this is the pit
 20 right here?
 21 **A. Yes.**
 22 **Q.** Can you draw where your body would have
 23 been, where you would have been lying down.
 24 Were you conscious of poles being inside
 25 the sweat lodge when you were there?

- 1 **A. Yes.**
- 2 **Q.** Were you able to -- did the poles ever
- 3 get in your way?
- 4 **A. No.**
- 5 **Q.** Did you know Liz Neuman?
- 6 **A. I did not know her other than as a**
- 7 **volunteer. And she was my go-to person during the**
- 8 **journaling process.**
- 9 **Q.** Did you know Liz Neuman prior to the
- 10 Spiritual Warrior 2009 event?
- 11 **A. No.**
- 12 **Q.** How was it that you were assigned to Liz
- 13 as your go-to person.
- 14 **A. I don't recall.**
- 15 **Q.** What did that mean for Liz to be your
- 16 go-to person?
- 17 **A. If there was a question in my journaling**
- 18 **that I was unclear how to continue, she was the**
- 19 **person to go and get clarity.**
- 20 **Q.** How much interaction did you have with
- 21 Liz during the week?
- 22 **A. Maybe four or five interactions asking**
- 23 **for clarity and spending time on that.**
- 24 **Q.** And was she helpful to you?
- 25 **A. She was.**

- 1 **Q.** The area that you were inside the sweat
- 2 lodge, Ms. Gordon -- do you recall whether you
- 3 received fresh air when the door opened?
- 4 **A. I don't recall receiving fresh air.**
- 5 **Q.** At some point in time during the
- 6 ceremony, was there a statement made by Mr. Ray
- 7 concerning a light?
- 8 **A. Yes.**
- 9 **Q.** And on how many occasions did you hear
- 10 Mr. Ray make a statement about a light?
- 11 **A. Twice.**
- 12 **Q.** When was the first time?
- 13 **A. Maybe around round 4.**
- 14 **Q.** What do you recall hearing?
- 15 **A. Turn off the light.**
- 16 **Q.** Were your eyes open or closed when you
- 17 heard that?
- 18 **A. Open.**
- 19 **Q.** Did you see a light?
- 20 **A. Yes.**
- 21 **Q.** Did you see the source of the light?
- 22 **A. No.**
- 23 **Q.** Did you see what part of the tent it came
- 24 from?
- 25 **A. Yes.**

- 1 **Q.** I'm going to put back up the diagram.
- 2 If you will just show the jury where you
- 3 saw the source.
- 4 **A. So the first or second time?**
- 5 **Q.** The first time. What did you hear
- 6 Mr. Ray say about the light?
- 7 **A. To turn off the light.**
- 8 **Q.** Did anybody respond to him?
- 9 **A. Not that I heard.**
- 10 **Q.** When was the second time that you heard
- 11 Mr. Ray say something about a light?
- 12 **A. Maybe round 8.**
- 13 **Q.** How many rounds were there?
- 14 **A. Eight.**
- 15 **Q.** What did you hear -- were you aware of a
- 16 light the second time you heard Mr. Ray say
- 17 something about a light?
- 18 **A. Yes.**
- 19 **Q.** Will you draw on here -- I keep erasing
- 20 your markings. But will you draw back where you
- 21 were.
- 22 And who was to your left for round 8?
- 23 **A. Sorry. I was answering your other**
- 24 **question. This is where I saw the other light.**
- 25 **Q.** Who was in that area when you saw the

- 1 other light?
- 2 **A. Kirby and James.**
- 3 **Q.** Kirby Brown and James Shore?
- 4 **A. Yes.**
- 5 **Q.** Were you on your back still?
- 6 **A. Yes.**
- 7 **Q.** And were you aware of any activity before
- 8 you heard Mr. Ray say something about a light?
- 9 **A. No.**
- 10 **Q.** Were you aware of a light?
- 11 **A. Yes.**
- 12 **Q.** How did you become aware of a light?
- 13 **A. I saw it.**
- 14 **Q.** And tell the jury what you saw.
- 15 **A. I saw the tent light up from that area.**
- 16 **Q.** Was anybody other than Kirby or James
- 17 Shore in the area when you saw the light, when you
- 18 saw the tent light up?
- 19 **A. Not that I saw.**
- 20 **Q.** When you say you saw the tent light up,
- 21 what do you mean by that?
- 22 **A. Well, it's very dark in there. So any**
- 23 **light is very bright. So it was a bright light**
- 24 **that came from that direction.**
- 25 **Q.** I'm going to put up on the overhead

1 Exhibit 528.

2 And, again, we don't really know what
3 part of the sweat lodge that is. But did you form
4 a belief as to how the light was coming in?
5 Talking about the eighth round.

6 MR. LI: Calls for speculation.

7 THE COURT: You may answer. It does call for
8 a yes or no response. If you're able to respond in
9 that fashion.

10 THE WITNESS: Yes.

11 Q. BY MS. POLK: Did the light come from --
12 we see here, for example, the ground, and then we
13 see the top of the sweat lodge. What part of this
14 area did the light come from?

15 A. The ground.

16 Q. And you formed a belief as to where the
17 light was coming from?

18 A. Yes.

19 Q. And tell the jury what you believe --

20 MR. LI: Your Honor, calls for speculation.

21 THE COURT: Overruled.

22 THE WITNESS: That it was lifted up from the
23 bottom up.

24 Q. BY MS. POLK: Did you form a belief as to
25 who had lifted the tent up for the light to come

1 in?

2 MR. LI: Your Honor, calls for speculation.

3 THE COURT: Again, if you can answer that yes
4 or no and that there is proper foundation, you may
5 answer that.

6 THE WITNESS: Yes.

7 Q. BY MS. POLK: What is your belief?

8 MR. LI: Your Honor.

9 THE COURT: Sustained.

10 Q. BY MS. POLK: What is the basis for the
11 belief that you formed as to who it was that lifted
12 up the side of the tent?

13 A. That there were two people there. And
14 after the ceremony, that part of the tent was open,
15 and the two people that I were next to were not in
16 the tent but out of the tent in the place where I
17 recall the tent being lifted.

18 Q. And based on that, who did you conclude
19 had lifted the side of the tent?

20 MR. LI: Your Honor, technically it's still
21 speculation.

22 THE COURT: It's clear this is a conclusion
23 and a belief. Overruled.

24 You may answer that.

25 THE WITNESS: James Shore.

1 Q. BY MS. POLK: When that side was lifted
2 and light came in, did you hear Mr. Ray respond?

3 A. Yes.

4 Q. And what did Mr. Ray say?

5 A. Turn off the light.

6 Q. That was the eighth round?

7 A. Yes.

8 Q. At any time during the sweat lodge
9 ceremony, did you hear Mr. Ray say, no one can
10 leave?

11 A. He did after the flap had been closed as
12 it's dark. You see how little space there is. For
13 safety common sense, you are not leaving when it's
14 dark.

15 Q. And how many times did you hear Mr. Ray
16 say, no one can leave?

17 A. I believe twice.

18 Q. When was the first time?

19 A. Maybe around the fourth or fifth round.

20 Q. Was the flap opened or closed during the
21 time -- the first time that you heard Mr. Ray say,
22 no one can leave?

23 A. Closed.

24 Q. Do you recall anything specific happening
25 around the first time you heard Mr. Ray say that?

1 A. I don't.

2 Q. Do you recall any activity going on
3 inside the sweat lodge at that time?

4 A. Not at that time.

5 Q. Did you know someone named Lou Caci?

6 A. I knew him as a fellow participant.

7 Q. Did you become aware of a problem
8 involving Lou at some point?

9 A. I did not know that it was him until
10 after it was confirmed.

11 Q. And at the time, what did you become
12 aware of?

13 A. That he hurt himself inside the sweat
14 lodge.

15 Q. Did you see anything happen with respect
16 to Lou?

17 A. No.

18 Q. The first time you heard Mr. Ray say, no
19 one is leaving, do you have a recollection today in
20 time whether it was before or after you were aware
21 of a problem involving Lou?

22 A. I don't know if it was -- there was
23 definitely commotion going on when the flap was
24 open. I don't recall any more commotion going on
25 after the flap had closed.

- 1 Q. Are you taking about specifically with
2 Lou or just the comment about no one is leaving?
3 A. **Sorry. I thought that's what you were**
4 **asking.**
5 Q. Do you recall today, Ms. Gordon, the
6 first time you heard Mr. Ray say, nobody is
7 leaving, or no one is leaving, was that before or
8 after the commotion surrounding Lou?
9 A. **I can't recall that.**
10 Q. Do you recall an issue involving someone
11 named Dennis Mehravar?
12 A. **No.**
13 Q. Do you ever recall hearing somebody
14 screaming about having a heart attack?
15 A. **No.**
16 Q. Going back to the people around you
17 during the ceremony, you told the jury that you
18 were lying on your back face up after you went from
19 sitting to lying down. Do you recall whether the
20 people around you were face up or face down inside
21 this tent?
22 A. **I know -- yes, I do. Mark was facing**
23 **down and James was facing down.**
24 Q. James?
25 A. **Shore.**

- 1 Q. And how about Sean Ronan?
2 A. **I don't know.**
3 Q. And do you know if Sidney Spencer was
4 face up or face down?
5 A. **She was sitting upright, not laying.**
6 Q. I'm going to put up on the overhead
7 Exhibit 1049 and ask you if you recognize who that
8 is.
9 A. **Yes.**
10 Q. Who is that?
11 A. **That's Sidney.**
12 Q. At some time during the ceremony, did you
13 become aware of Sidney Spencer in particular?
14 A. **Yes.**
15 Q. What drew your attention to her?
16 A. **She was being pulled out or started to be**
17 **pulled out. And I looked over and I noticed her**
18 **passed out with her chin to her chest.**
19 Q. Was this when the flap was up or flap was
20 down?
21 A. **Flap was up.**
22 Q. And how far from Sidney was you -- I'm
23 sorry. How far from Sidney were you?
24 A. **Maybe 20 inches.**
25 Q. She was right next to you?

- 1 A. **Well, one space and then her.**
2 Q. What was her position when you saw that
3 she was passed out?
4 A. **I don't understand.**
5 Q. Was she lying down?
6 A. **No. She was sitting up.**
7 Q. And you just described her head. Can you
8 show the jury what you mean.
9 A. **Her head was to her chest.**
10 Q. What round was this?
11 A. **The end of six.**
12 Q. What about Sidney makes you make the
13 statement that she was passed out?
14 A. **Because she didn't respond to her name.**
15 Q. Was somebody calling her name?
16 A. **Yes.**
17 Q. Who was calling her name? Do you know?
18 A. **Shore and myself.**
19 Q. What were you saying to Sidney?
20 A. **Sidney, her name, Sidney.**
21 Q. And did she respond?
22 A. **No.**
23 Q. Why were you calling her name?
24 A. **Because she appeared not to be awake.**
25 Q. Were you concerned?

- 1 A. **Not too much.**
2 Q. What did you hear James Shore say?
3 A. **He asked for help in pulling her out.**
4 Q. Do you recall his exact words?
5 A. **I need help pulling her out.**
6 Q. What sort of voice, volume of voice, did
7 he use?
8 A. **A talking voice, not overly loud or**
9 **didn't project it. I could hear it.**
10 Q. And this was when the flap was open?
11 A. **Yes.**
12 Q. Did somebody respond to James Shore's
13 statement about needing help to get Sidney out?
14 A. **Yes.**
15 Q. Do you know who responded?
16 A. **No.**
17 Q. Other than Sidney appearing to be passed
18 out and head down, did you notice anything else
19 about her?
20 A. **No.**
21 Q. Did people help to get Sidney out?
22 A. **Yes. James and someone else. I don't**
23 **know who took her out.**
24 Q. James Shore?
25 A. **Yes.**

1 Q. What did you see from your position as
2 they took Sidney out?
3 A. That she was sitting upright, and she was
4 not responding to her name, and her chin was to her
5 chest.
6 Q. Did you touch her at all?
7 A. Yes.
8 Q. And why did you touch her?
9 A. I saw that she was being pulled out and
10 that her -- that her head needed to be coddled. So
11 I reached up and held her head. And when she was
12 being pulled out, it would come down to the ground
13 softly.
14 Q. From the sitting position?
15 A. Yes.
16 Q. Ms. Gordon, are you able to recall today
17 specifically how James Shore got her out?
18 A. No.
19 Q. Are you able to recall what part of
20 Sidney's body James Shore grabbed?
21 A. Her legs.
22 Q. And what did you see from your position,
23 then, James Shore do?
24 A. He took her out with someone else. I do
25 not know who. And he came back in. So he left and

1 came back.
2 Q. And you say he left. How far out did you
3 see Mr. Shore go?
4 A. I did not see how far out he went.
5 Q. And inside the sweat lodge, when you saw
6 Mr. Shore dragging Sidney out, how far to the door
7 was it that you saw Mr. Shore go?
8 A. To the door.
9 Q. And then at the door what did you see
10 Mr. Shore do, if anything?
11 A. I didn't see what he did when he got to
12 the door.
13 Q. Did you see whether anybody else came to
14 the door to get Sidney from Mr. Shore?
15 A. I didn't see that.
16 Q. And how much time passed from the time
17 you saw Mr. Shore drag Sidney to the door, between
18 that and his return, Mr. Shore's return?
19 A. Pretty quickly. Couple of minutes.
20 Q. Did that all happen while the flap was
21 open?
22 A. It did.
23 Q. Did Mr. Shore say anything when he came
24 back?
25 A. I don't recall if it was my addressing

1 him or him addressing me first. But there was an
2 observation of somebody that we think is Kirby
3 having trouble breathing.
4 Q. Before we talk about that, were you
5 alarmed at all when you saw Sidney Spencer?
6 A. Not too much.
7 Q. Did you have an expectation prior to the
8 sweat lodge beginning that people would pass out?
9 A. I wouldn't say expectation. But it had
10 been said that it could happen.
11 Q. And who said that?
12 A. James Ray.
13 Q. When did James Ray say that people could
14 pass out?
15 A. During the briefing of the events.
16 Q. Did Mr. Ray say what would happen to
17 somebody who had passed out?
18 A. I can't recall.
19 Q. Did you have an expectation of what would
20 happen to somebody who passed out during the
21 ceremony?
22 A. Yes. My expectation is they would be
23 okay.
24 Q. And what was that expectation based on?
25 A. The briefing and the fact that there were

1 volunteers that had done it before that were there.
2 So for me it was okay. This is the way it goes.
3 Q. Had anybody told you anything about the
4 experience of the volunteers who had done it
5 before?
6 A. Well, Mark Rock did after the event. He
7 told me that he had been in -- he told me he had
8 been in the previous -- all of them had been in
9 it -- the volunteers.
10 Q. How did you know that, that all of the
11 volunteers had been in it before?
12 A. I think during the -- throughout the
13 event it was disclosed that all of the volunteers
14 to be there had to have had a prior experience of
15 the event in order to participate as a volunteer.
16 Q. And had anybody told you prior to your
17 doing the sweat lodge that there had been any
18 problems in the past years?
19 MR. LI: Objection, Your Honor. Calls for
20 hearsay. Subject to the prior ruling, assumes
21 facts not in evidence, just not true.
22 THE COURT: Sustained.
23 Q. BY MS. POLK: After Sidney Spencer was
24 passed out, did you have any -- do you know what
25 happened to her? Did you know at that time what

1 had happened to her when she was taken out?

2 **A. No.**

3 **Q. And when she was dragged out by**

4 Mr. Shore, do you know where Mr. Ray was?

5 **A. I could hear his voice continuing on just**
6 **as he had done with the previous rounds. So I**
7 **assumed he was in the same spot that he was. What**
8 **I heard appeared to be the same spot that he was**
9 **prior.**

10 **Q. And that spot was where?**

11 **A. Near the opening of the flap.**

12 **Q. Did you ever hear Mr. Ray check up on**
13 **Sidney Spencer at that time when she was dragged**
14 **out?**

15 **A. No. I was still a participant at that**
16 **time and still doing my -- I'm still doing my own**
17 **event. I wasn't paying attention to what was**
18 **happening outside the tent.**

19 **Q. Will you explain that statement to the**
20 **jury, what you mean when you say you were doing**
21 **your own event.**

22 **A. I'm participating in my personal growth.**
23 **That's what I'm there for, to expand and grow. So**
24 **I'm paying attention to what's happening and where**
25 **my limits are and where I may need to push through.**

1 **Q. Prior to entering the sweat lodge, had**
2 **Mr. Ray ever suggested that you, as a participant,**
3 **should look out for the people around you?**

4 **A. There was a little idea of that, but it**
5 **wasn't an instruction. It wasn't -- it was not a**
6 **buddy system by any means. It was an internal**
7 **journey. That's how I understood it. It was not**
8 **about someone else was going to be watching over me**
9 **or I had responsibility for someone else.**

10 **Q. And when you say an internal journey for**
11 **you --**

12 **A. Yes.**

13 **Q. -- where did you get that understanding**
14 **from?**

15 **A. I had that understanding for myself**
16 **before meeting James Ray or the events. That's why**
17 **I'm in the event.**

18 **Q. And specifically Spiritual Warrior 2009.**
19 **Was that -- how did you perceive that event with**
20 **respect to what you just said?**

21 **A. I got tremendous value out of it. I had**
22 **a lot of personal time to be able to journal and**
23 **discover things that I may not have been able to do**
24 **if I tried to do it on my own and have the daily**
25 **distractions.**

1 **Q. Did you perceive the week to be about**
2 **your own personal growth?**

3 **A. Yes.**

4 **Q. And not about the others around you?**

5 **A. It's my personal growth, but it's also**
6 **their personal growth. So they're in it for their**
7 **personal growth, and they have their own**
8 **limitations that they're pursuing and their way.**
9 **And they're going to be in a different place than I**
10 **am. And I have my own issues to deal with. So**
11 **it's a given that we're there to work on our**
12 **issues.**

13 **Q. Okay.**

14 **THE COURT: Ms. Polk, let's go ahead and take**
15 **the recess now. It's a little bit sooner than I**
16 **had planned.**

17 **Ladies and gentlemen, please be**
18 **reassembled at five after, 15 minutes.**

19 **Remember the admonition.**

20 **Ms. Gordon, I'm telling all the**
21 **witnesses, remember that the rule of exclusion of**
22 **witnesses has been invoked. You cannot talk or try**
23 **to communicate with any other witness about the**
24 **case or your testimony until the trial is over.**

25 **You can talk to the lawyers, though, as**

1 **long as no other witnesses are present.**

2 **Okay?**

3 **So you're excused at this time, and the**
4 **jury.**

5 **We'll be back in about 15 minutes. Thank**
6 **you.**

7 **(Recess.)**

8 **THE COURT: The record will show the presence**
9 **of Mr. Ray, the attorneys, the jury. And**
10 **Ms. Gordon has returned to the witness stand.**

11 **Ms. Polk.**

12 **Q. BY MS. POLK: Ms. Gordon, right before**
13 **the break, you were talking about your inward**
14 **journal, I think, in life, but in particular about**
15 **at Spiritual Warrior 2009. Have you ever heard the**
16 **expression "let them have their own experience"?**

17 **A. Yes.**

18 **Q. And in what context?**

19 **A. A spiritual context, a growth context.**

20 **Q. Is that a phrase you heard from Mr. Ray?**

21 **A. I have.**

22 **Q. And was that a phrase you heard during**
23 **the week of Spiritual Warrior 2009 events?**

24 **A. I believe so.**

25 **Q. Do you recall whether you heard that**

1 phrase at any time during the sweat lodge ceremony?

2 **A. I don't recall.**

3 **Q.** During that week in what context do you
4 recall hearing that phrase?

5 **A. When we were given a set of questions**
6 **and -- to journal, to physically be writing, and to**
7 **explore inward. And that's where I heard more**
8 **about that.**

9 **Q.** Okay. I'm going to show you what's been
10 marked as 1073.

11 And, Your Honor, Counsel has agreed to
12 the admission of 1073.

13 MR. LI: That's correct.

14 THE COURT: 1073 is admitted.

15 (Exhibit 1073 admitted.)

16 **Q.** BY MS. POLK: Do you recognize this
17 person in the photograph?

18 **A. Yes.**

19 **Q.** Who do you know that to be?

20 **A. Kirby.**

21 **Q.** I'm going to put Exhibit 1073 up on the
22 overhead.

23 And show the jury, if you would, who on
24 here is Kirby Brown.

25 Were you aware during the week that Kirby

1 had had her head shaved?

2 **A. Yes.**

3 **Q.** And specifically aware of it or just
4 generally?

5 **A. Generally.**

6 **Q.** I'm going to put up on the overhead
7 Exhibit 1046. Do you see James Shore in this
8 photograph?

9 **A. It's possible this is him here.**

10 **Q.** And you say possible. Are you not sure?

11 **A. Not sure because I can't see his full**
12 **face.**

13 **Q.** Would it help if I brought the photograph
14 up, or would that make a difference?

15 **A. I don't think so.**

16 **Q.** I'm going to put up on the overhead
17 Exhibit 1045.

18 You had talked about Tess Wong and going
19 into the sweat lodge with Tess. Do you see her in
20 this photograph?

21 **A. Yes.**

22 **Q.** Show the jury, please.

23 **A. Right there.**

24 **Q.** I'll circle. Is this who you intended
25 to --

1 **A. Yes.**

2 **Q.** I want to ask you some questions now
3 about Kirby Brown inside the sweat lodge. At some
4 point did you become aware that Kirby was talking?

5 **A. Yes.**

6 **Q.** And around what round did you become
7 aware of Kirby talking?

8 **A. Maybe the third or fourth round.**

9 **Q.** Again, your position was this area?

10 **A. Yes.**

11 **Q.** And see if you can make a mark for Kirby
12 where she was when you became aware of her talking.
13 Was there anybody between you and Kirby at this
14 time?

15 **A. Yes.**

16 **Q.** Who was between you?

17 **A. Shore and Sidney.**

18 **Q.** James Shore and Sidney Spencer?

19 **A. Uh-huh.**

20 **Q.** What drew your attention to Kirby at that
21 time?

22 **A. She was starting a chant -- not a chant.**
23 **She was repeatedly saying, we can do it, we can do**
24 **it.**

25 **Q.** When was she saying that?

1 **A. Around round 3 or 4.**

2 **Q.** What was going on in terms of the
3 ceremony itself by Mr. Ray when Kirby was saying,
4 we can do it?

5 **A. She did not talk over James as he had**
6 **words to say at the beginning of each round. So it**
7 **was after he stopped talking. Then she would start**
8 **saying those words.**

9 **Q.** How many times did she say, we can do it?

10 **A. That time?**

11 **Q.** Yes.

12 **A. At least three.**

13 **Q.** Was it in a very loud voice?

14 **A. Yes.**

15 **Q.** How loud?

16 **A. Not quite shouting but not talking.**

17 **Q.** Did you hear anybody around you respond
18 to what --

19 Will you put yourself and Kirby back up.

20 Did you hear anybody around Kirby respond
21 when she was saying, we can do it, loudly?

22 **A. I did.**

23 **Q.** Do you know who responded?

24 **A. I believe it was Sean.**

25 **Q.** And where was Sean?

1 **A. Maybe right here.**
 2 **Q.** What did you hear Sean say?
 3 **A. He asked Kirby to shut up and stop saying**
 4 **that, because we are doing it. It's not we can do**
 5 **it. We are doing it.**
 6 **Q.** What sort of voice did Sean use when he
 7 said that?
 8 **A. A loud voice.**
 9 **Q.** And what was his tone like?
 10 **A. Firm.**
 11 **Q.** Did anybody else say anything at that
 12 time to Kirby?
 13 **A. There were other people that chimed in on**
 14 **that as well. And I don't know who.**
 15 **Q.** What did you hear other people say?
 16 **A. Same thing. We are doing it. And for**
 17 **her to stop saying that, to be quiet and stop**
 18 **saying that.**
 19 **Q.** Was it significant to you the words that
 20 Kirby was using -- we can do it?
 21 **MR. LI:** Objection. Relevance, speculation,
 22 foundation.
 23 **THE COURT:** Overruled.
 24 **THE WITNESS:** I had thoughts around what she
 25 was saying.

1 **Q.** BY MS. POLK: And can you tell the jury
 2 what your thoughts were.
 3 **A. It was she was --**
 4 **MR. LI:** Objection. Calls for speculation,
 5 Your Honor.
 6 **THE COURT:** If it's having to do with what's
 7 in someone else's mind. Yes. Sustained.
 8 **Q.** BY MS. POLK: When Sean and others said
 9 what they said to Kirby, did Kirby respond?
 10 **A. She kept saying those same words over**
 11 **again until she heard other people telling her to**
 12 **stop. And I heard her stop.**
 13 **Q.** Did she ever say those words again?
 14 **A. She did.**
 15 **Q.** And when did she say them again?
 16 **A. Maybe the sixth round or seventh round.**
 17 **Q.** The first time was which round?
 18 **A. The third or fourth. And this might have**
 19 **been the sixth round.**
 20 **Q.** And what did she say around the sixth
 21 round?
 22 **A. Same. We can do it.**
 23 **Q.** What sort of voice did Kirby use?
 24 **A. Loud voice again.**
 25 **Q.** How loud?

1 **A. More than talking, less than shouting.**
 2 **Q.** Did you observe anything about her voice
 3 other than that it was loud? This is the sixth
 4 round.
 5 **A. Only judgement on my part.**
 6 **Q.** Did you observe anything about Kirby's
 7 breathing at that time?
 8 **A. No.**
 9 **Q.** And when Kirby again was saying, we can
 10 do it, did anybody respond?
 11 **A. Yes. Once again there were several**
 12 **people telling her to shut up and stop saying that.**
 13 **Sean again. And I thought I heard -- I did. I**
 14 **heard Josh tell her, if you don't stop doing it,**
 15 **we're going to ask you to leave.**
 16 **Q.** Tell the jury who Josh is.
 17 **A. Josh is an employee or staff member of**
 18 **James Ray.**
 19 **Q.** Do you know where Josh was sitting inside
 20 the sweat lodge when he said that to Kirby?
 21 **A. I do. He's right here.**
 22 **Q.** And what sort of tone of voice did Josh
 23 use?
 24 **A. Firm, clear, loud.**
 25 **Q.** Why was what Kirby saying invoking that

1 response from people?
 2 **MR. LI:** Objection. Calls for speculation.
 3 **THE COURT:** Once again, if it has to do with
 4 somebody else's possible state of mind.
 5 **Q.** BY MS. POLK: Did it invoke a response
 6 from you, a thought, when Kirby was saying, we can
 7 do it?
 8 **A. Yes.**
 9 **Q.** What was your reaction to that?
 10 **A. That she was trying to convince herself.**
 11 **MR. LI:** Objection. Move to strike.
 12 Speculation.
 13 **THE COURT:** Overruled.
 14 **Q.** BY MS. POLK: People said to her, shut
 15 up?
 16 **A. Yes.**
 17 **Q.** Was that a reaction that you had as well?
 18 **A. Yes.**
 19 **Q.** And why?
 20 **A. Partly because it was -- it was**
 21 **repetitive like a chant. And it was disruptive**
 22 **for -- for what I was perceiving as needing to take**
 23 **care of my well-being, both in my journey and what**
 24 **was going on and why I was in the sweat lodge in**
 25 **the first place.**

1 **So it was disruptive. It wasn't -- it**
 2 **wasn't part of anything that was instructed to do.**
 3 **It was spontaneous, and it was, in my opinion, not**
 4 **appropriate.**

5 Q. Was it distracting?

6 A. Yes.

7 Q. When she -- when Kirby was saying, we can
 8 do it, we can do it, was it loud enough for Mr. Ray
 9 to hear?

10 A. **I don't know. It was loud. I can't tell**
 11 **you if he heard it or not.**

12 Q. Did you ever hear Mr. Ray respond at that
 13 time when Kirby said, we can do it?

14 A. **I did not hear his voice particularly.**

15 Q. When you heard -- the second time when
 16 you heard Kirby saying, we can do it, did you
 17 physically see her? Did you observe her?

18 A. **No. It was dark.**

19 Q. At any time around the sixth round, were
 20 you able to observe Kirby's position in the sweat
 21 lodge?

22 A. Yes.

23 Q. And what did you observe about it?

24 A. **That she was laying down.**

25 Q. When she was saying, we can do it, the

1 second time?

2 A. **No. This was at the end. This was at --**
 3 **I observed her when the flap was open at the end of**
 4 **the sixth round.**

5 Q. And in relationship to what you just
 6 testified about what Kirby was saying, was that
 7 before or after?

8 A. **Ask me that again.**

9 Q. You observed Kirby at the end of the
 10 sixth round. Is that what you just testified?

11 A. **I could see her. Yes.**

12 Q. Had you already heard Kirby say, we can
 13 do it?

14 A. Yes.

15 Q. You testified right before we took the
 16 break about Sidney Spencer being passed out and
 17 James Shore dragging her out. When did you hear
 18 Kirby say, we can do it, in relationship to James
 19 Shore dragging Sidney Spencer?

20 A. **Before.**

21 Q. Before that?

22 A. **Uh-huh.**

23 Q. Did you ever hear -- after the sixth
 24 round ever hear Kirby Brown again say, we can do
 25 it?

1 A. **No.**

2 Q. Are you able to tell the jury today
 3 approximately how many times between the two
 4 different times you heard Kirby say that -- how
 5 many times she said it?

6 A. **Combined, more than six.**

7 Q. At the end of the sixth round, then, you
 8 said that you saw Kirby. Was the flap open or
 9 closed?

10 A. **At the end of the sixth round, the flap**
 11 **was open.**

12 Q. What did you observe about Kirby at that
 13 time?

14 A. **That I heard her having trouble**
 15 **breathing.**

16 Q. With respect to what you've testified
 17 about James Shore pulling Sidney Spencer out, was
 18 this before or after that?

19 A. **After.**

20 Q. So after James Shore dragged Sidney
 21 Spencer, what did he do?

22 A. **He came back. And he and I had some**
 23 **communication. I don't know if I started it or he**
 24 **started it. But that she's having trouble**
 25 **breathing.**

1 Q. That's what James Shore said to you?

2 A. **I think that's what I had said.**

3 Q. Let me clear the board and have you show
 4 us again some positions. If you put yourself back
 5 up there.

6 After Mr. Shore took Sidney out and he
 7 came back, where did he go?

8 A. **It was dynamic. So first he came back to**
 9 **where he originally was, which was next to me right**
 10 **here. And then when we now discovered Kirby having**
 11 **difficulty breathing, we had a conversation about**
 12 **getting her off of her back. And I had said to**
 13 **him, get her off her back.**

14 Q. So let me back you up a little bit. When
 15 Mr. Shore came back in and took that position that
 16 you've just shown the jury, where was Kirby?

17 How much time had passed since you had
 18 last heard Kirby say, we can do it, and what you're
 19 describing now for the jury?

20 A. **Maybe 15 minutes.**

21 Q. And what happened during that 15 minutes?

22 A. **Round six completing, the flap opening,**
 23 **Sidney being taken out and James coming back.**

24 Q. When Kirby said, we can do it, did you
 25 ever hear anybody say, we are doing it?

- 1 **A. Yes.**
- 2 **Q.** Was that the first or the second time you
- 3 heard Kirby saying that?
- 4 **A. That was the first time.**
- 5 **Q.** And what did you hear?
- 6 **A. We are doing it. Kind of a correction to**
- 7 **what she was saying, we can do it. It was Sean.**
- 8 **He was saying, we are doing it, and again asking**
- 9 **her to shut up.**
- 10 **Q.** When Mr. Shore then came back in and took
- 11 the position, that you've just shown the jury,
- 12 between you and Kirby, what did you become aware
- 13 of? Did you become aware of Kirby?
- 14 **A. Yes.**
- 15 **Q.** And what drew your attention to her?
- 16 **A. Her difficulty, the sound of her**
- 17 **breathing.**
- 18 **Q.** Describe for the jury what you heard
- 19 about Kirby's breathing.
- 20 **A. It sounded like there was a very**
- 21 **snotty-nose sound like you have a very bad cold,**
- 22 **kind of fluid-sounding snot.**
- 23 **Q.** And how loud was her breathing?
- 24 **A. Louder -- you could hear it. Versus not**
- 25 **being able to hear her breathing, but you could**

- 1 **hear her laboring to breathe. You could hear that.**
- 2 **Q.** When was the first time you heard Kirby's
- 3 labored breathing?
- 4 **A. At the end of the -- when Sidney was**
- 5 **taken out and when -- now there is just nothing**
- 6 **between me and Kirby until James came back from**
- 7 **helping get Sidney out.**
- 8 **Q.** Did you feel concerned?
- 9 **A. A little. Yes.**
- 10 **Q.** And what concerned you at that time?
- 11 **A. That she was on her back. And I know**
- 12 **when I've had colds, it's hard for me to breathe**
- 13 **when I'm on my back. So that was my concern.**
- 14 **Q.** Did you say anything to Kirby?
- 15 **A. Yes.**
- 16 **Q.** What did you say?
- 17 **A. Keep breathing.**
- 18 **Q.** And why did you say that?
- 19 **A. Because it sounded that she was**
- 20 **struggling breathing.**
- 21 **Q.** Did Kirby say anything back to you?
- 22 **A. No.**
- 23 **Q.** What did you do next?
- 24 **A. Asked James to help get -- first I asked**
- 25 **James to get her off her back.**

- 1 **Q.** And by "James," which James do you mean?
- 2 **A. Shore.**
- 3 **Q.** What did you say to James Shore?
- 4 **A. Get her off her back.**
- 5 **Q.** And what happened next?
- 6 **A. He couldn't do it on his own.**
- 7 **Q.** Did you see what James Shore did when you
- 8 asked him for help?
- 9 **A. Yes. He tried to push her onto her side.**
- 10 **Q.** And why could he not do it on his own?
- 11 **A. I don't know.**
- 12 **Q.** What did you do next?
- 13 **A. Told him to get on the other side of her**
- 14 **and that I would put my feet under her back and**
- 15 **push her up, and he could pull her arms.**
- 16 **Q.** Did you do that?
- 17 **A. Yes.**
- 18 **Q.** And how did you do it from your position?
- 19 **A. I stayed on the ground. I didn't want to**
- 20 **sit up. So I stayed low. And I somewhat got in**
- 21 **the fetal position and tucked my feet under her**
- 22 **back. And as he was pulling, I was pushing. And**
- 23 **we got her on her side.**
- 24 **Q.** Why did you want to stay low?
- 25 **A. Because it's cooler on the ground.**

- 1 **Q.** What was your condition at that time,
- 2 Ms. Gordon?
- 3 **A. Wanting to complete. My condition was**
- 4 **more concerned about staying the course and wanting**
- 5 **to complete what I set out to do. I was hot. I**
- 6 **was ready to be done.**
- 7 **Q.** Why did you want to complete the
- 8 ceremony?
- 9 **A. I wanted to push myself as far as I**
- 10 **possibly could go. I just wanted to push myself to**
- 11 **see how far I could go.**
- 12 **Q.** Why -- when you were helping turn Kirby
- 13 to her side, why did you not sit up?
- 14 **A. Heat rises. So I was -- the logic in me**
- 15 **is it's going to be hotter up there than it is down**
- 16 **here. And I was in a position of trying to**
- 17 **conserve my resources. That was kind of what was**
- 18 **going on. What do I need to do to complete?**
- 19 **Q.** In terms of your reserving your
- 20 resources, did you not feel you had enough to even
- 21 sit up briefly to help Kirby turn over?
- 22 **A. I felt that if James could not do it with**
- 23 **his arms, and he was larger than me, I'm not going**
- 24 **to be able to complete. And there is more strength**
- 25 **in my legs. So logic told me I would be able to be**

1 **more powerful with my legs in addition to wanting**
2 **to stay low to the ground.**

3 Q. Had you made any observations about James
4 Shore prior to that time in terms of how he was
5 doing in the sweat lodge?

6 A. Yes.

7 Q. What had you observed?

8 A. **The majority of the ceremony he was face**
9 **down, and he -- he was struggling.**

10 Q. What makes you testify that James Shore
11 was struggling?

12 A. **He had some words that -- things like,**
13 **oh, jeez, and oh, and sighs and things where I**
14 **shared with him, just keep breathing and stay calm.**

15 Q. Do you recall what round it was that you
16 shared that with James?

17 A. **Maybe four or five.**

18 Q. When you saw Mr. Shore drag Sidney out
19 and come back, did you have a reaction to that?

20 MR. LI: Objection. Form of the question,
21 Your Honor.

22 THE COURT: Overruled.

23 You may answer that.

24 THE WITNESS: You're asking me if I had a
25 reaction to him coming back in?

1 Q. BY MS. POLK: Yes.

2 A. **I had thoughts.**

3 Q. And what thoughts did you have?

4 MR. LI: Objection, Your Honor. Relevance.

5 THE COURT: Not knowing the scope, Ms. Polk.
6 Sustained as to the form of the question.
7 Foundation.

8 Q. BY MS. POLK: Having heard what you
9 described as James Shore struggling around the
10 fourth round, were you surprised that he came back
11 after dragging Sidney Spencer?

12 A. **I was.**

13 Q. And why were you surprised?

14 A. **Because he left and chose to come back.**
15 **He had his own free will to stay outside, and he**
16 **chose to come back in.**

17 Q. And once he came back in, how much time
18 passed before you had the conversation with him
19 about Kirby?

20 A. **15 seconds. Pretty quickly.**

21 Q. Did you and Mr. Shore successfully turn
22 Kirby?

23 A. Yes.

24 Q. And what direction did you turn her?

25 A. **Facing away from me towards Shore.**

1 Q. And what position, then, did you get
2 Kirby to lay in?

3 A. **On her side.**

4 Q. During the time that you were moving
5 Kirby to her side, did she respond in any way to
6 you?

7 A. No.

8 Q. And what was her breathing like?

9 A. **The same.**

10 Q. Once you got her to her side, did her
11 breathing change at all?

12 A. No.

13 Q. Did that concern you?

14 A. **Not more than what I was already**
15 **concerned because she still was breathing.**

16 Q. And what do you mean? Because she was
17 still breathing. What did that mean to you?

18 MR. LI: Objection, Your Honor. Form of the
19 question.

20 THE COURT: Overruled.

21 You may answer that.

22 THE WITNESS: Would you ask it again, please?

23 Q. BY MS. POLK: You said that -- I don't
24 want to misquote you. But something like at least
25 she was still breathing or she was still breathing.

1 MR. LI: Your Honor, she did not say, at least
2 she was still breathing, for the record. Counsel
3 could just ask the question.

4 THE COURT: Just as to the form. The
5 question -- Ms. Polk, please phrase another
6 question.

7 Q. BY MS. POLK: Did you make any other
8 observations about -- were Kirby's eyes open or
9 closed?

10 A. **I couldn't see that.**

11 Q. Did her body respond in any way, react in
12 any way, when you turned her to her side?

13 A. No.

14 Q. Did she assist you in any way when you
15 turned her to her side?

16 A. No.

17 Q. Did she move her body on her own after
18 you turned her to her side?

19 A. **Not that I know of.**

20 Q. What happened next with respect to Kirby?
21 This was the beginning of the seventh round?

22 A. **I think -- yes.**

23 Q. Do you recall whether the flap was opened
24 or closed when you and Mr. Shore moved Kirby to her
25 side?

1 **A. It was as -- getting ready to close. So**
 2 **we were in process of doing this.**
 3 **Q. How long did it take you to get Kirby to**
 4 **her side?**
 5 **A. 15 seconds.**
 6 **Q. What happened after you got Kirby to her**
 7 **side?**
 8 **A. We continued with the next round.**
 9 **Q. And did anything happen during the**
 10 **seventh round with respect to Kirby or Mr. Shore?**
 11 **A. We were both talking to her, telling her**
 12 **to keep breathing.**
 13 **Q. What were you in particular saying to**
 14 **Kirby?**
 15 **A. Keep breathing.**
 16 **Q. What was Mr. Shore saying to Kirby?**
 17 **A. Things like, it's going to be okay, and**
 18 **sweet things like that. He had a very sweet voice**
 19 **with her. Keep breathing, and it's going to be**
 20 **okay. He was very gentle with her, in my opinion.**
 21 **Q. Why did you say to Kirby, keep breathing?**
 22 **A. For -- trying to give some reassurance**
 23 **and some -- I don't know. Just instinctively**
 24 **that's what I said.**
 25 **Q. Did you believe that she was going to**

1 stop breathing?
 2 **A. I did not have that thought.**
 3 **Q. Did you say, keep breathing, to anybody**
 4 **else around you?**
 5 **A. To Shore when he was laying next to me.**
 6 **Yes.**
 7 **Q. And was that later or at the same time?**
 8 **A. That was prior. That was in rounds prior**
 9 **to this.**
 10 **Q. And that's when you heard Mr. Shore**
 11 **struggling?**
 12 **A. Yes.**
 13 **Q. And what did you say to him in rounds**
 14 **prior?**
 15 **A. Stay calm and just keep breathing, to**
 16 **stay calm.**
 17 **Q. When you then -- once the seventh round**
 18 **began and you were saying to Kirby, keep breathing,**
 19 **did Kirby respond to you?**
 20 **A. No.**
 21 **Q. What do you recall happening next?**
 22 **A. The seventh round happening the way all**
 23 **the other rounds happened.**
 24 **Q. And about how long do you recall the**
 25 **seventh round being?**

1 **A. The same. I mean, things started to feel**
 2 **longer after the seventh round. When the flap**
 3 **opened at the seventh round, it seems there was a**
 4 **lot of activity going on. And I remember thinking,**
 5 **please, hurry. Hurry. I want this over. I was**
 6 **starting to get wrapped up in my head a little bit**
 7 **and had to bring myself -- calm myself down because**
 8 **I wanted to finish.**
 9 **Q. When the flap opened at the end of the**
 10 **seventh round, was where was Kirby Brown?**
 11 **A. Still in the same place.**
 12 **Q. Were you still hearing her breathing?**
 13 **A. Yes.**
 14 **Q. What did her breathing sound like?**
 15 **A. The same.**
 16 **Q. This is when she'd been on her side now**
 17 **for a round?**
 18 **A. Yes.**
 19 **Q. Where was James Shore?**
 20 **A. On her opposite side. So on her left**
 21 **side.**
 22 **Q. And was Mr. Shore talking to you at all**
 23 **at the end of the seventh round?**
 24 **A. No.**
 25 **Q. Was he talking to Kirby at all?**

1 **A. Yes. He was saying -- he was continually**
 2 **saying things to her.**
 3 **Q. You had testified earlier that two times**
 4 **you had heard Mr. Ray say something about the**
 5 **light. When was the second time?**
 6 **A. During the eighth round.**
 7 **Q. So let me back up a little bit, then.**
 8 **Did anything happen with respect to Kirby Brown**
 9 **while the flap was open between the seventh and the**
 10 **eighth round?**
 11 **A. Near -- near -- again, it seemed like**
 12 **there was a lot -- from my perspective, there was**
 13 **a -- it seemed like that flap was open forever.**
 14 **And please just let's move on to the eighth round.**
 15 **And near the end of all of that, Shore said, I need**
 16 **help getting her out, or, I need help -- I need**
 17 **help over here.**
 18 **Q. Where was James Shore when he said that?**
 19 **A. I believe in the same position that he**
 20 **had been prior.**
 21 **Q. Do you recall -- do you know whether**
 22 **James Shore was sitting up or lying down when he**
 23 **said that?**
 24 **A. When I had seen him, he was up on his**
 25 **right elbow.**

1 Q. In what direction?

2 A. **Facing Kirby.**

3 Q. And do you recall what he was doing up on

4 his right elbow?

5 A. **Talking to her.**

6 Q. While the flap was open, he called out?

7 A. **Yes.**

8 Q. What sort of voice did he use?

9 A. **Not a very -- once I heard him say that,**

10 **it was not a voice where he projected. It wasn't a**

11 **demanding or firm voice.**

12 Q. Would you describe it as weak?

13 A. **No.**

14 Q. And what do you recall specifically

15 Mr. Shore saying?

16 A. **I need help over here.**

17 Q. Did anybody respond?

18 A. **I don't believe so.**

19 Q. Did you hear Mr. Ray say anything?

20 A. **Not until after the flap closed was there**

21 **an announcement that no one was leaving at that**

22 **time.**

23 Q. And what did you hear Mr. Ray say

24 specifically?

25 A. **No one is leaving at this time.**

1 Q. And do you recall him saying anything

2 else?

3 A. **I don't.**

4 Q. And do you recall being interviewed on

5 October 8th of 2009 and talking about this

6 specifically with the detective?

7 A. **I don't.**

8 Q. If you saw a transcript of that

9 interview, would that help refresh your

10 recollection?

11 A. **Of course.**

12 Q. I'm going to hand you Exhibit 695, which

13 is a transcript of the interview on the evening of

14 October 8, 2009; and then also Exhibit 647, which

15 is a transcript of the second interview that you

16 did. And this one was with Sergeant Boelts on

17 October 12, 2009.

18 Prior to coming here today, have you had

19 a chance to review these transcripts?

20 A. **Yes.**

21 Q. Back at the time that you were

22 interviewed on evening of October 8, 2009, where

23 did that interview take place?

24 A. **Inside the dining room.**

25 Q. At that time were you aware that the

1 interview was being tape-recorded?

2 A. **Yes.**

3 Q. Would you take a look, then, at page 8

4 and page 11. Just silently look at those pages,

5 and then I'll ask you a question.

6 A. **Okay.**

7 Q. First of all, does that help refresh your

8 recollection as to what James Shore said with

9 regard to Kirby?

10 A. **Yes.**

11 Q. And what do you recall specifically James

12 Shore saying?

13 A. **We need help over here.**

14 Q. If you look at the top of page 8,

15 Ms. Gordon.

16 A. **Okay.**

17 Q. Do you recall whether James Shore ever

18 used Kirby's name when he said, we need help over

19 here?

20 A. **I don't recall that.**

21 Q. And do you recall what you told the

22 detective that night? Are you able to see what you

23 told the detective that night?

24 A. **Well, I see that. But I don't see where**

25 **it says Kirby's name.**

1 Q. Do you see the top of page 8 where it

2 says, and then he asked that Kirby needs to go --

3 come out? And at that point James had said, nobody

4 else -- nobody else can leave at this point?

5 A. **I see that. I'm just saying I don't**

6 **recall that at this moment.**

7 Q. I understand that.

8 When you heard James Shore call out, was

9 there any doubt in your mind who he was talking

10 about?

11 A. **Yes. There would be doubt.**

12 Q. What doubt is that?

13 A. **That that wasn't -- wasn't just for her.**

14 Q. And, again, looking at your statement

15 that you made to the police officer that same

16 evening, the passage I've just shown you, at that

17 point was there any doubt in your mind?

18 A. **When you ask it that way, yes. There was**

19 **doubt. It was dark and there were other people**

20 **that had been needing assistance throughout the**

21 **prior rounds. So it wasn't an absolute for me.**

22 Q. And if I can direct your attention to the

23 bottom of page 7 and the top of page 8.

24 And looking at the top of page 8, do you

25 see where it says, and then he asked that Kirby

1 needs to go -- come out? And at that point James
2 said, nobody else -- nobody else can leave at this
3 point?

4 And then Detective Parkinson said, James
5 said that?

6 And you said, uh-huh.

7 And Parkinson said, which James?

8 And you said, Ray.

9 **A. I see that.**

10 **Q.** You see that?

11 **A. Yes.**

12 **Q.** When James Shore called out, what
13 happened next?

14 **MR. LI:** Your Honor -- actually, Your Honor,
15 I'm going to object to the form of the question,
16 called out.

17 **THE COURT:** Sustained.

18 **Q.** BY MS. POLK: When James Shore said what
19 he said -- I didn't mean to suggest the tone of
20 voice. When James Shore said what he said, was the
21 flap opened or closed?

22 **A. It was still open.**

23 **Q.** And when James Shore said that, he was
24 this position right here?

25 **A. Yes.**

1 **Q.** And you said he was up on his elbow
2 looking at Kirby?

3 **A. Yes.**

4 **Q.** Did the flap close at that point?

5 **A. Yes.**

6 **Q.** And that was after Mr. Ray said what?

7 **A. I believe that he said after the flap was**
8 **closed that no one can leave at this point.**

9 **Q.** Why do you think today that was after the
10 flap was closed?

11 **A. Because it was consistent with other**
12 **times it had been said.**

13 **Q.** Meaning what?

14 **A. That when the flap closed, no one else**
15 **can leave at that point.**

16 **Q.** How many times had you heard Mr. Ray say,
17 no one else can leave?

18 **A. One other time.**

19 **Q.** That is what you testified about earlier?

20 **A. Uh-huh.**

21 **Q.** After the flap was closed, did you
22 continue to hear Kirby breathing?

23 **A. I did.**

24 **Q.** For how much longer?

25 **A. I believe all the way up until the**

1 **time -- the eighth round and the flap opened to**
2 **leave.**

3 **Q.** You say you believe?

4 **A. Uh-huh.**

5 **Q.** At some point were you conscious that you
6 could no longer hear that breathing sound?

7 **A. At some point I was not paying attention**
8 **to my surroundings. I was paying attention to**
9 **getting out, to completing -- completing the**
10 **process. And then I went very much inward to**
11 **complete the process and complete. So I -- there**
12 **was a point where I stopped paying attention to my**
13 **surroundings.**

14 **Q.** Was that during the eighth round?

15 **A. At the end of the eighth round.**

16 **Q.** Did you know before the sweat lodge
17 ceremony began how many rounds it was going to be?

18 **A. I understood eight but that it could be**
19 **more.**

20 **Q.** Why did you understand eight?

21 **A. A couple of reasons. One, the number of**
22 **pouches that we had made were representing**
23 **different aspects of growth and letting go, and it**
24 **was said during the briefing.**

25 **Q.** You had testified earlier about the light

1 in this area the second time. When was that with
2 respect to the eighth round?

3 **MR. LI:** Objection. Asked and answered,
4 Your Honor.

5 **THE COURT:** Overruled.

6 **Q.** BY MS. POLK: You can answer.

7 **A. It was in the eighth round.**

8 **Q.** Tell the jury how many minutes, if you
9 know, into the eighth round you then saw the light.

10 **A. I don't know how many minutes.**

11 **Q.** At the time that you saw the light, do
12 you recall today whether you could still hear Kirby
13 breathing?

14 **A. I believe she was still breathing.**

15 **Q.** And when you saw the light, you testified
16 earlier you believe it was James Shore who had
17 lifted up the edge?

18 **A. Yes.**

19 **Q.** Do you have any recollection today how
20 high the flap was lifted?

21 **A. No.**

22 **Q.** And did you hear anybody respond when
23 Mr. Shore lifted the flap?

24 **A. I heard James Ray say, turn off the**
25 **light.**

- 1 Q. And what happened?
- 2 A. **The flap went down. Not the flap. I'm**
- 3 **sorry. The tent.**
- 4 Q. And just to make clear, I'll put up
- 5 Exhibit 528. Can you point to the -- again,
- 6 understanding that this is not necessarily the side
- 7 of the tent where you were in, can you point to the
- 8 area where the flap or the edge of the tent was
- 9 lifted.
- 10 A. **Ask me that again.**
- 11 Q. Using this photograph, can you show the
- 12 jury how a light came in.
- 13 A. **From the bottom. From the bottom.**
- 14 Q. Do you know how high it was lifted?
- 15 A. **No, I do not.**
- 16 Q. Do you know how wide the area was where
- 17 it was lifted?
- 18 A. **I don't.**
- 19 Q. After Mr. Ray said -- he said, turn out
- 20 the light?
- 21 A. **Yes.**
- 22 Q. Did the light go away?
- 23 A. **Yes.**
- 24 Q. And did you hear James Shore say
- 25 anything?

- 1 A. **No.**
- 2 Q. Did you hear any sounds coming from James
- 3 Shore after that?
- 4 A. **I didn't.**
- 5 Q. Did you hear any sounds coming from Kirby
- 6 Brown after that?
- 7 A. **She was -- I still heard that breathing**
- 8 **that she was doing.**
- 9 Q. You had testified how during the seventh
- 10 round, both you and Mr. Shore were saying to Kirby,
- 11 keep breathing. Did you say that to Kirby in the
- 12 eighth round?
- 13 A. **Not that I recall.**
- 14 Q. And do you recall hearing Mr. Shore in
- 15 the eighth round say to Kirby, keep breathing?
- 16 A. **Early on I did.**
- 17 Q. Do you recall when it was that you no
- 18 longer heard that?
- 19 A. **When the flap opened.**
- 20 Q. Between the seventh and the eighth round?
- 21 A. **No.**
- 22 Q. At the end?
- 23 A. **At the end. And, again, like I said, my**
- 24 **awareness went from being very out to very close to**
- 25 **me. And so that's when I stopped paying attention**

- 1 **as much.**
- 2 Q. And, Ms. Gordon, why during the eighth
- 3 round did your awareness come inward like that?
- 4 A. **At the end of the eighth round, because**
- 5 **now it's completed. And James Ray stated that**
- 6 **we're done and to grab your pouches and leave. So**
- 7 **I was wanting out and to complete and go to**
- 8 **whatever was next.**
- 9 Q. Do you have any idea how long the last
- 10 round was?
- 11 A. **No. It seemed forever, but no. I would**
- 12 **assume that it was the same as the others.**
- 13 Q. And do you have any recollection today
- 14 when the last time was that you heard Mr. Shore say
- 15 anything?
- 16 A. **I just remember him being very sweet to**
- 17 **Kirby. And so that was sometime in the seventh,**
- 18 **eighth round. In the eighth -- somewhere in the**
- 19 **beginning of the eighth round is when I -- the last**
- 20 **interaction that I paid attention to.**
- 21 Q. The beginning of the eighth round?
- 22 A. **Yes.**
- 23 Q. Is that the last time you paid attention
- 24 to Kirby Brown as well?
- 25 A. **At the end of that round I stopped paying**

- 1 **attention. That's when my attention went more on**
- 2 **me than on other people.**
- 3 Q. Once the sweat lodge ceremony was over,
- 4 how did you get out?
- 5 A. **I drug myself out.**
- 6 Q. What direction did you go?
- 7 A. **Towards the --**
- 8 Q. You testified about the pouch. Did you
- 9 get your pouch before going out?
- 10 A. **No. I couldn't get it untangled from the**
- 11 **branch.**
- 12 Q. How long did it take you to get out once
- 13 you started to get out?
- 14 A. **Maybe 30 seconds or less. It seemed**
- 15 **quick. At least, in my mind, it seemed fast.**
- 16 Q. How did you get yourself out?
- 17 A. **I pulled myself out.**
- 18 Q. How did you -- what does it mean to pull
- 19 yourself out?
- 20 A. **Well, I didn't have a lot of physical**
- 21 **strength. So I wasn't really on my hands and**
- 22 **knees. I was kind of on my hands and legs and just**
- 23 **pulling myself along.**
- 24 Q. How would you describe your condition at
- 25 that time?

1 A. Weak.

2 Q. What was your mental state at that time?

3 A. Very proud of myself. I actually had the
4 feeling that this was the most proud I had ever
5 felt for accomplishing something like this and was
6 very excited to have done something that I feel had
7 tested me.

8 Q. Could you explain that to the jury why
9 that made you feel proud.

10 A. For me it was difficult. For me it was
11 hard. For me it was something that I had to
12 constantly manage my state and my thinking. I
13 thought I had some control over my heartbeat and my
14 breathing. So there was a lot of self-management
15 going on, which I was looking for.

16 I'm looking to be able to manage myself
17 better and be able to handle stress better in real
18 life. So the proudness came from being able to
19 accomplish something that I had to use all of those
20 things in a physically demanding environment that
21 required my mental and emotional being to come
22 together and sticking it out. So I was proud of
23 myself.

24 Q. As you were coming out of the sweat
25 lodge, Ms. Gordon, were you aware of Kirby Brown?

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1 A. No. Not when I was coming out.

2 Q. And as you were coming out, were you
3 aware of James Shore?

4 A. Yes and no. Because as I was coming
5 out -- like I said, things got very closed in and a
6 lot of -- it was very silent for me. I don't know
7 if there was noise going on. But for me it was
8 very quiet and silent.

9 And I didn't know why people weren't
10 moving. Because the instructions were it's okay to
11 leave now. It's over with. And you usually wait
12 for the person in front of you to move and then you
13 move. And that wasn't happening. So I took it
14 upon myself to move and go.

15 Q. Do you recall if you went past people at
16 that point?

17 A. I did go past people.

18 Q. Did you observe any of the people that
19 you went past?

20 A. No.

21 Q. And I had asked you if you were aware of
22 James Shore, and you said, yes and no. How were
23 you aware of him?

24 A. Because he was -- he and Kirby were next
25 to me. And so I waited for them to move, and they

1 didn't. So I went between the space of his feet
2 and the fire pit. And that's the path that I took
3 to get out.

4 Q. Did you see any movement out of James
5 Shore at all?

6 A. I didn't. But I wasn't looking.

7 Q. Did you see any movement out of Kirby
8 Brown at all?

9 A. I didn't. But I was not looking.

10 Q. Did you hear her breathing at that point?

11 A. I didn't as my awareness was not on her.

12 MS. POLK: Your Honor, I see it's past 5:00.

13 Would you like me to stop?

14 THE COURT: Yes. Thank you, Ms. Polk.

15 We will take the evening recess at this
16 time, ladies and gentlemen. Of course, please
17 remember and follow all the aspects of the
18 admonition. I ask that you return at the regular
19 time tomorrow at 9:15.

20 Ms. Gordon, you're excused at this time
21 for the evening recess as well. Recall the rule of
22 exclusion, as I talked to you about earlier.

23 We will be in recess, then.

24 Thank you.

25 (The proceedings concluded.)

240

1 STATE OF ARIZONA)
2 COUNTY OF YAVAPAI) ss: REPORTER'S CERTIFICATE

3
4 I, Mina G. Hunt, do hereby certify that I
5 am a Certified Reporter within the State of Arizona
6 and Certified Shorthand Reporter in California.

7 I further certify that these proceedings
8 were taken in shorthand by me at the time and place
9 herein set forth, and were thereafter reduced to
10 typewritten form, and that the foregoing
11 constitutes a true and correct transcript.

12 I further certify that I am not related
13 to, employed by, nor of counsel for any of the
14 parties or attorneys herein, nor otherwise
15 interested in the result of the within action.

16 In witness whereof, I have affixed my
17 signature this 7th day of June, 2011.

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24
25

MINA G. HUNT, AZ CR No. 50619
CA CSR No. 8335

1 STATE OF ARIZONA)
2 COUNTY OF YAVAPAI) ss: REPORTER'S CERTIFICATE
3

4 I, Mina G. Hunt, do hereby certify that I
5 am a Certified Reporter within the State of Arizona
6 and Certified Shorthand Reporter in California.

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16 In witness whereof, I have affixed my
17 signature this 7th day of June, 2011.

18

19

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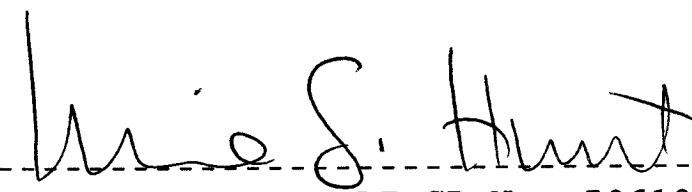
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MINA G. HUNT, AZ CR No. 50619
CA CSR No. 8335